

City of Fayetteville, Arkansas

113 West Mountain Street

Fayetteville, AR 72701

(479) 575-8267



Planning Commission Tentative Agenda

Thursday, August 10, 2023

4:30 PM

City Hall Room 111

Planning Commission Members

Sarah Sparkman, Chair

Andrew Brink, Vice Chair

Mary McGetrick, Secretary

Jimm Garlock

Fred Gulley

Joseph Holcomb

Mary Madden

Brad Payne

Porter Winston

Senior Assistant City Attorney Blake Pennington

Call to Order**Roll Call****Consent****1. MINUTES:**

Approval of the minutes from the July 24, 2023 Planning Commission. - Mirinda Hopkins, Development Coordinator

2. VAR-2023-0032: Planning Commission Variance (7010 W. JOHN GARRISON RD/ KNIGHT, 239):

Submitted by ALAN REID & ASSOCIATES for property located 7010 W. JOHN GARRISON RD. The property is in the FAYETTEVILLE PLANNING AREA and contains approximately 37.72 acres. The request is for reduction in road frontage requirements. - Donna Wonsower, Planner

Unfinished Business**3. LSD-2022-0042: Large Scale Development (3120 W. OLD FARMINGTON RD/SOUTHERN WOODS CLUSTER DEVELOPMENT, 557):**

Submitted by COMMUNITY BY DESIGN for property located at 3120 W. OLD FARMINGTON RD. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approximately 20.40 acres. The request is for 12 cluster housing developments with a total of 134 single family units.

PLANNING COMMISSION VOTED TO RECONSIDER THIS ITEM AT THE JULY 24, 2023 MEETING, AND TABLED UNTIL THE AUGUST 14, 2023 MEETING. - Gretchen Harrison, Senior Planner

New Business**4. ADM-2023-0032: Administrative Item (PLANNING COMMISSION RULES OF ORDER AND PROCEDURE):**

Submitted by City Staff. The request is to amend the Planning Commission Rules of Order and Procedure to limit applicant presentations to ten minutes. - Britin Bostick, Long Range Planning/Special Projects Manager

5. CUP-2023-0079: Conditional Use Permit (1771 N. OAKLAND AVE/MARQUEZ, 366):

Submitted by ASHER CONSTRUCTION INC for property located at 1771 N. OAKLAND AVE. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY,

FOUR UNITS PER ACRE and contains approximately 0.24 acres. The request is to use the residence as a short-term rental.

ITEM WITHDRAWN FOR INCOMPLETE PUBLIC NOTIFICATION. - Jessica Masters, Development Review Manager

6. CUP-2023-0085: Conditional Use Permit (865 S. ONE MILE RD/SANTIAGO, 557):

Submitted by ALBERTO SANTIAGO JR for property located at 865 S. ONE MILE RD. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approximately 0.12 acres. The request is to use the residence as a short-term rental.

ITEM WITHDRAWN FOR INCOMPLETE PUBLIC NOTIFICATION. - Donna Wonsower, Planner

7. ADM-2023-0026: Administrative Item (W. VAN ASCHE DR./JJ'S SPORTS PARK, 210):

Submitted by JORGENSEN & ASSOCIATES for the property located at W. VAN ASCHE DR. The property is zoned R-A, RESIDENTIAL- AGRICULTURAL and contains approximately 11.88 acres. The request is to amend a previously approved conditional use permit. - Jessica Masters, Development Review Manager

8. ADM-2023-0029: Administrative Item (3120 W. OLD FARMINGTON RD/SOUTHERN WOODS CLUSTER DEVELOPMENT, 557):

Submitted by COMMUNITY BY DESIGN for property located at 3120 W. OLD FARMINGTON RD. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approximately 20.40 acres. The request is for an amendment to a previously approved conditional use permit. - Gretchen Harrison, Senior Planner

9. ADM-2023-0031: Administrative Item (3120 W. OLD FARMINGTON RD/SOUTHERNWOODS CLUSTER DEVELOPMENT, 557):

Submitted by COMMUNITY BY DESIGN for property located at 3120 W. OLD FARMINGTON RD. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approximately 20.40 acres. The request is for an amendment to a large scale development. - Gretchen Harrison, Senior Planner

10. ADM-2023-0030: Administrative Item (4698 E. MISSION BLVD/ELLIS ESTATES SUBDIVISION, 297):

Submitted by BLEW & ASSOCIATES for property located at 4698 E. MISSION BLVD. The property is in the FAYETTEVILLE PLANNING AREA and contains

approximately 24.96 acres. The request is for an extension of a previously approved preliminary plat. - Gretchen Harrison, Senior Planner

11. VAR-2023-0022: Planning Commission Variance (216 N. LOCUST AVE/DICKSON SQUARE LLC, 556):

Submitted by ECOLOGICAL DESIGN GROUP INC for property located at 216 N. LOCUST AVE. The property is zoned DG, DOWNTOWN GENERAL and contains approximately 0.60 acres. The request is for variances to residential design standards and to typical sidewalk width requirements. - Jessica Masters, Development Review Manager

12. VAR-2023-0031: Planning Commission Variance (1207 N. SHADY LN/LITTLE, 406):

Submitted by MARJORIE LITTLE for property located 1207 N SHADY LN. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 0.17 acres. The request is for reduction of driveway separation requirements. - Donna Wonsower, Planner

13. VAR-2023-0033: Planning Commission Variance (3825 N. SHILOH DR/CAJAKAJO INVESTMENTS, 174):

Submitted by BLEW & ASSOCIATES for property located 3825 N. SHILOH DR. The property is zoned C-2, THOROUGHFARE COMMERCIAL and contains approximately 2.61 acres. The request is for a variance from the flood damage protection ordinance. - Alan Pugh, Staff Engineer

14. VAR-2023-0035: Planning Commission Variance (822 N. GARLAND AVE/OSMENT, 444):

Submitted by OLSSON for property located at 822 N. GARLAND AVE. The property is zoned CS, COMMUNITY SERVICES and contains approximately 0.14 acres. The request is for a variance from the Master Street Plan. - Gretchen Harrison, Senior Planner

15. LSD-2023-0007: Large Scale Development (SOUTH OF 2530 N. COLLEGE AVE/CRYE LEIKE NEW FACILITY, 290):

Submitted by HOPE CONSULTING for property located at SOUTH OF 2530 N. COLLEGE AVE. The property is zoned C-2, THOROUGHFARE COMMERCIAL and contains approximately 2.26 acres. The request is for a 17,001 square foot commercial building. - Donna Wonsower, Planner

16. CUP-2023-0081: Conditional Use Permit (603 N. LEVERETT AVE/SAINT THOMAS AQUINAS, 444):

Submitted by CRAFTON TULL & ASSOCIATES for property located at 603 N. LEVERETT AVE. The property is zoned RMF-40, RESIDENTIAL MULTI-

FAMILY, FORTY UNITS PER ACRE and contains approximately 1.05 acres. The request is to operate a church in RMF-40 zoning. - Jessica Masters, Development Review Manager

17. RZN-2023-0019: Rezoning (1634 W. MARTIN LUTHER KING JR BLVD/THOMPSON, 521):

Submitted by GMB KB Fayetteville LLC for property located at 1634 W. MARTIN LUTHER KING JR BLVD. The property is zoned R-O, RESIDENTIAL OFFICE and contains approximately 0.58 acres. The request is to rezone the property to C-2, THOROUGHFARE COMMERCIAL. - Donna Wonsower, Planner

18. CUP-2023-0084: Conditional Use Permit (146 N. PALMER AVE/DUNHAM, 482):

Submitted by ROBERT DUNHAM for property located at 146 N. PALMER AVE. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 0.20 acres. The request is to use the residence as a short-term rental. - Donna Wonsower, Planner

19. CUP-2023-0086: Conditional Use Permit (1780 N. WALNUT AVE/CARTER, 368):

Submitted by HAILEY COLE for property located at 1780 N. WALNUT AVE. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 0.30 acres. The request is to use the residence as a short-term rental. - Donna Wonsower, Planner

20. CUP-2023-0041: Conditional Use Permit (1431 W. SLIGO ST, UNIT 6/SCHMITS, 599):

Submitted by JOSEPH SCHMITS for property located at 1431 W. SLIGO ST, UNIT 6. The property is zoned RMF-24, RESIDENTIAL MULTI-FAMILY, TWENTY FOUR UNITS PER ACRE and contains approximately 1.47 acres. The request is to use the residence as a short-term rental. - Gretchen Harrison, Senior Planner

21. CUP-2023-0080: Conditional Use Permit (1416 S. DUNCAN AVE/BRICKEY, 561):

Submitted by MICHAEL BRICKEY for property located at 1416 S. DUNCAN AVE. The property is zoned RMF-24, RESIDENTIAL MULTI-FAMILY, TWENTY FOUR UNITS PER ACRE and contains approximately 0.10 acres. The request is to use the residence as a short-term rental. - Gretchen Harrison, Senior Planner

22. CUP-2023-0082: Conditional Use Permit (281 W. ASH ST, UNIT 4/KING, 367):

Submitted by JEFF KING for property located at 281 W. ASH ST, UNIT 4. The property is zoned RMF-24, RESIDENTIAL MULTI-FAMILY, TWENTY FOUR

UNITS PER ACRE and contains approximately 0.79 acres. The request is to use the residence as a short-term rental. - Gretchen Harrison, Senior Planner

23. CUP-2023-0083: Conditional Use Permit (411 W. PATRICIA LN/DAVIS-BARTON, 406):

Submitted by MOUNTAIN HAVEN PROPERTIES for property located at 411 W. PATRICIA LN. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 0.20 acres. The request is to use the residence as a short-term rental. - Gretchen Harrison, Senior Planner

24. CUP-2023-0076: Conditional Use Permit (1625 N. BOXLEY AVE/DUNCAN, 399):

Submitted by BRENT JOHNSON for property located at 1625 N. BOXLEY AVE. The property is zoned RI-12, RESIDENTIAL INTERMEDIATE, TWELVE UNITS PER ACRE and contains approximately 0.10 acres. The request is to use the residence as a short-term rental. - Jessica Masters, Development Review Manager

25. CUP-2023-0077: Conditional Use Permit (1623 N. BOXLEY AVE/DUNCAN, 399):

Submitted by BRENT JOHNSON for property located at 1623 N. BOXLEY AVE. The property is zoned RI-12, RESIDENTIAL INTERMEDIATE, TWELVE UNITS PER ACRE and contains approximately 0.20 acres. The request is to use the residence as a short-term rental. - Jessica Masters, Development Review Manager

26. CUP-2023-0078: Conditional Use Permit (115 E. 9TH ST/MARTIN, 563):

Submitted by MARTIN BUILDING GROUP for property located at 115 E. 9TH ST. The property is zoned RSF-18, RESIDENTIAL SINGLE-FAMILY, EIGHTEEN UNITS PER ACRE and contains approximately 0.03 acres. The request is to use the residence as a short-term rental. - Jessica Masters, Development Review Manager

Items Administratively Approved by Staff

27. LSP-2023-0011: Lot Split (N. ADAMS RD & W. WEIR RD/BAILEY, 203):

Submitted by SWOPE ENGINEERING for property located at N. ADAMS RD AND W. WEIR RD. The property is in the FAYETTEVILLE PLANNING AREA and contains approximately 158.20 acres. The request is to split the property into four lots with approximately 82.73, 69.31, 3.21, and 3.10 acres. - Donna Wonsower, Planner

28. LSP-2023-0030: Lot Split (W. SALISA LN/SOUTHERNWOODS PH 2, 557):

Submitted by COMMUNITY BY DESIGN for property located on W. SALISA LN. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approximately 2.31 acres. The request is to split the property into 28 residential lots. - Jessica Masters, Development Review Manager

29. LSP-2023-0031: Lot Split (4100 N. SASSAFRAS HILL RD/ OZTURK INVESTMENTS, 355):

Submitted by ALAN REID & ASSOCIATES for property located on N. SASSAFRAS HILL RD. The property is in the FAYETTEVILLE PLANNING AREA and contains approximately 9.75 acres. The request is to split the property into three lots with approximately 3.00, 3.00, and 3.75 acres. - Gretchen Harrison, Senior Planner

30. LSP-2023-0035: Lot Split (SE OF S. FURTRALL DR & W. MCMILLIAN DR/MARINONI INC & PAM ANGUS LTD, 441):

Submitted by CRAFTON TULL for property located SE OF S. FURTRALL DR & W. MCMILLIAN DR. The property is split zoned UT, URBAN THOROUGHFARE, and CS, COMMUNITY SERVICES, and contains approximately 38.93 acres. The request is to split the property to two lots with approximately 28.79 acres, and 10.14 acres. - Jessica Masters, Development Review Manager

31. LSP-2023-0040: Lot Split (1746 N. OLD WIRE RD/DREYER, 292):

Submitted by BATES & ASSOCIATES for property located at 1746 N. OLD WIRE RD. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains two parcels containing approximately 1.04 acres and 0.17 acres. The request is to divide the property into three parcels containing 0.82 acres, 0.19 acres, and 0.19 acres. - Donna Wonsower, Planner

32. LSP-2023-0043: Lot Split (1403 E HILLDALE DR/BUFFINGTON HOMES OF ARKANSAS LLC, 292):

Submitted by DCI for property located at 1403 E. HILLDALE DR. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains one parcel totaling 0.84 acres. The request is to subdivide the property into three lots containing 0.25, 0.35, and 0.24 acres. - Gretchen Harrison, Senior Planner

Agenda Session Items

Announcements

Adjournment

NOTICE TO MEMBERS OF THE AUDIENCE

All interested parties may appear and be heard at the public hearings. If you wish to address the Planning Commission on an agenda item, please queue behind the podium when the Chair asks for public comment. Once the Chair recognizes you, go to the podium and give your name and address. Address your comments to the Chair, who is the presiding officer. The Chair will direct your comments to the appropriate appointed official, staff, or others for response. Please keep your comments brief, to the point, and relevant to the agenda item being considered so that everyone has a chance to speak.

Interpreters of TDD, Telecommunications Device for the Deaf, are available for all public hearings, 72 hour notice is required. For further information or to request an interpreter, please call 575-8330.

As a courtesy please turn off all cell phones and pagers.

(pg. 1) Planning Commission										
Monday, 7/24/2023										
Time:	5:30pm									
Staff :	☒ Melissa Evans ☐ John Scott ☒ Jessie Masters ☒ Gretchen Harrison ☒ Donna Wonsower ☐ Britin Bostick ☐ Sherry Smith ☒ Josh Boccaccio ☐ Melissa Boyd ☒ Fire Marshall ☐ Chris Brown ☐ Alan Pugh									
	Roll Call	1) Minutes 07-10-2023	2) VAR-2023-0026 (OZTURK INVESTMENTS)	3) VAR-2023-0028 (UNIVERSITY LOFTS AT THE SANCTUARY)	Reconsider LSD-2022-0042			4) CUP-2023-0059 (HALL)		5) CUP-2023-0061 (LEETH)
Payne	1	1	1	1	1	1	1	0	1	1
Gulley	1	1	1	1	1	1	1	0	0	1
Holcomb	1	1	1	1	1	1	1	0	1	1
Winston	1	1	1	1	1	1	1	1	0	1
McGetrick	1	1	1	1	1	1	1	1	0	1
Sparkman	0									
Brink	1	1	1	1	1	1	1	0	1	1
Garlock	1	1	1	1	0	1	1	1	0	1
Madden	1	1	1	1	1	1	1	1	0	1
Agenda		Consent	Consent	Consent				Old		Old
Motion By		Garlock	Garlock	Garlock	Madden	Payne	Madden	Winston	Payne	Madden
Motion 2nd		Payne	Payne	Payne	Winston	Winston	Garlock	Garlock	Brink	Garlock
Vote		8-0-0	8-0-0	8-0-0	7-1-0	8-0-0	8-0-0	4-4-0	3-5-0	8-0-0
Action		Approve	Approve	Approve	Recon	Variance	Table	Deny	Approve	Approve
Time		5:34 PM	5:34 PM	5:34 PM	5:49 PM	5:49 PM	5:49 PM	6:03 PM	6:03 PM	6:06 PM
Motion Detail					Passed to be reconsidered at 8/14 PC Meeting No Public Comment			Failed 1 Public Comment		Passed with conditions as recommended by staff. No Public Comment

(pg. 2) Planning Commission		Monday, 7/24/2023			
	6) VAR-2023-0027 (CHURCH & LOCUST TOWNHOMES)	7) VAR-2023-0029 (ROAD RUNNER)	8) VAR-2023-0030 (ROAD RUNNER)	9) LSD-2023-0008 (RIVERSIDE VILLAGE PH 2)	10) CUP-2023-0070 (BELL)
Payne		1	1	1	1
Gulley		1	0	1	1
Holcomb		1	1	1	1
Winston		1	1	1	1
McGetrick		1	1	1	1
Sparkman					
Brink		1	1	1	1
Garlock		0	0	1	1
Madden		0	0	1	1
Agenda	WITHDRAWN	New	New	New	New
Motion By		Winston	Winston	Madden	Garlock
Motion 2nd		Holcomb	Holcomb	Garlock	Payne
Vote		6-2-0	5-3-0	8-0-0	8-0-0
Action		Approve	Approve	Approve	Approve
Time		6:50 PM	6:47 PM	7:00 PM	7:05 PM
Motion Detail		Passed with conditions as recommended by staff No Public Comment	Passed with conditions as recommended by staff. Except for -24' wide on Mt. Comfort -Max aisle width and pedestrian aisle will be straightened -Striping plan will be provided & Aisles that don't meet minimum width for 2-way will be marked as 1-way only. No Public Comment	Passed with conditions as recommended by staff No Public Comment	Passed with conditions as recommended by staff No Public Comment

(pg. 3) Planning Cc		Monday, 7/24/2023			
	11) RZN-2023-0017 (THE LENNON)	12) CUP-2023-0055 (BATTISTO)	13) CUP-2023-0072 (SELVAM)	14) CUP-2023-0073 (BEYKIRCH)	15) CUP-2023-0071 (REYNOLDS)
Payne	1	1	1	1	1
Gulley	1	1	1	1	1
Holcomb	1	1	1	1	1
Winston	1	1	1	1	1
McGetrick	1	1	1	1	1
Sparkman					
Brink	1	0	1	1	1
Garlock	1	1	1	1	1
Madden	1	1	1	1	1
Agenda	New	New	New	New	New
Motion By	Garlock	Madden	Payne	Madden	Payne
Motion 2nd	Madden	Payne	Garlock	Payne	Brink
Vote	8-0-0	7-1-0	8-0-0	8-0-0	8-0-0
Action	Forward	Deny	Approve	Deny	Deny
Time	7:12 PM	8:04 PM	8:09 PM	8:26 PM	9:05 PM
Motion Detail	Passed to forward to City Council with a recommendation of approval. No Public Comment	Passed 13 Public Comment	Passed with conditions as recommended by staff. No Public Comment	Passed 4 Public Comment	Passed 9 Public Comment



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: August 14, 2023

SUBJECT: **VAR-2023-0032: Planning Commission Variance (7010 W. JOHN HARRISON ROAD/ KNIGHT, 239):** Submitted by ALAN REID & ASSOCIATES for property located at 7010 W. JOHN HARRISON ROAD. The property is in the FAYETTEVILLE PLANNING AREA and contains approximately 37.72 acres. The request is for a variance to road frontage requirements.

RECOMMENDATION:

Staff recommends approving **VAR-2023-0032**, with conditions.

RECOMMENDED MOTION:

*"I move to approve **VAR-2023-0032**, with conditions, determining:*

- *In favor of the requested variance to UDC §166.05 - Required Infrastructure Improvements and Subdivision Regulations - Development in Planning Area*
- *In favor of all other conditions as recommended by staff."*

BACKGROUND:

The subject property is near the western edge of Fayetteville's Planning Area along W. John Garrison Road. The property currently consists of one parcel, developed with a 2,015 square foot single-family dwelling constructed in 1977, as well as an 8x12 foot outbuilding, 12x36 foot pole shed, and 18x20 foot carport. Surrounding land use and zoning is depicted in Table 1.

Table 1:
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Undeveloped / Single-Family Residential	Fayetteville Planning Area
South	Undeveloped / Single-Family Residential	Fayetteville Planning Area
West	Single-Family Residential	Fayetteville Planning Area
East	Single-Family Residential	Fayetteville Planning Area

Request: The applicant proposes to split the subject property into two lots. The proposed lot split would result in Tract "A" retaining frontage along W. John Garrison Rd, an unclassified street, and Tract "B" retaining no public frontage. All lots in the Fayetteville Planning Area are required to have at least 75 feet of direct frontage onto a public street. Consequently, the proposed lot split necessitates a variance to UDC §166.05(A)(3).

DISCUSSION

Staff is supportive of the requested variance. The street frontage requirement is applied to lot splits because the creation of new residential properties carries an associated potential to increase density and, therefore, impact existing City services. Requiring residential properties to have public street access in the Planning Area also facilitates the orderly integration of properties into city limits, should they be annexed. W. John Harrison Road is a narrow, winding street with moderate topography. Further, the proposed lot split would create two lots containing 27.32 and 9.49 acres. Tract B, the larger lot, does not have frontage on a public street. The subject property is currently a single lot surrounded by rural residential properties varying in both size and arrangement. Surrounding properties vary between roughly 0.8 and 43 acres and several nearby also do not have direct frontage to a public street. The two proposed resultant lots are not appreciably different in size or configuration when compared to the low-density development pattern exhibited by the neighboring properties. Tract B is separated from the nearest public street, W. John Garrison Rd to the east, by almost 400 feet and the proposed Tract A. A 30-foot access easement is proposed to be dedicated with the lot split centered on the existing driveway. As this easement is partially located on the adjacent properties to the south, the adjacent property owners will need to also sign the plat authorizing the dedication of an easement on their land. If the adjacent property owners will not allow the access easement, it will need to be shifted entirely within the bounds of the parent parcel.

Public Comment: Staff received one phone call inquiring about the request, but no comments either for or against the proposed variance.

RECOMMENDATION: Staff recommends approval of VAR-2023-0032, with the following conditions.

Conditions of Approval:

1. **Planning Commission determination of a variance of UDC 166.05(A)(3), requiring all lots in the Fayetteville Planning Area to have direct street frontage pursuant to residential lot and block standards set by Washington County.** *Staff is supportive of this request based on the findings herein with the following conditions;*
 - a. The adjacent property owners will need to also sign the plat authorizing the dedication of an easement on their land, as indicated on the plat. If the adjacent property owners will not allow the access easement, it shall be shifted entirely within the bounds of the parent parcel.
2. Approval of this variance does not represent overall development entitlement approval for the project, nor grant approval for any associated grading or building permits, nor does it grant final approval of certificate of occupancy.
3. The applicant shall receive approval from Washington County prior to recordation.

PLANNING COMMISSION ACTION: Required YES

Date: August 14, 2023 ☐ Tabled ☐ Approved ☐ Denied

Motion:

Second:

Vote:

BUDGET/STAFF IMPACT:

None

Attachments:

- Unified Developed Code:
 - UDC §166.05 - Required Infrastructure Improvements and Subdivision Regulations - Development In Planning Area
- Request Letter
- Site Plan
- One Mile Map
- Close-up Map
- Current Land Use Map

166.05 Required Infrastructure Improvements and Subdivision Regulations - Development In Planning Area

(A) *Required Infrastructure Improvements and Subdivision Regulations Outside the City.*

- (1) *Within 1 Mile of City Limits.* On and off-site improvements and subdivision regulations for development outside the city limits and within one mile of the city are the same as for those developments within the city limits, with the exception of park land dedication requirement which is not required.
- (2) *Beyond 1 Mile of City Limits.* On- and off-site improvements and subdivision regulations for development outside 1 mile of the city limits shall meet Washington County standards.
- (3) All lots in the planning area shall have direct frontage to a public street, with the minimum frontage required by Washington County pursuant to residential lot and block standards.

(B) *Developments Outside City Developed to All Inside the City Standards.* If the City Council grants access to the City's sewer system pursuant to §51.115. (C) and the owner/developer agrees to petition for annexation as soon as legally possible and develop the subdivision in accordance with all city development requirements including payment of all impact fees, the bulk and area requirements for this subdivision shall conform to those within the RSF-4 Zoning District or as otherwise designated by the City Council rather than those within the planning area.

(Code 1965, App. A., Art. 8(11), App. C., Art. IV; Ord. No. 1747, 6-29-70; 1750, 7-6-70; Ord. No. 1999, 5-7-74; Code 1991, §§159.54, 160.120; Ord. No. 3925, §6, 10-3-95; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4753, 9-6-05; Ord. No. 5215, 1-20-09; Ord. No. 5270, 9-1-09; Ord. No. 5296, 12-15-09; Ord. No. 5546, 12-04-12)



Alan Reid
& ASSOCIATES
PROFESSIONAL
LAND
SURVEYORS
BOUNDARY
TOPO
GPS

July 5, 2023

City of Fayetteville
Planning & Engineering
125 W. Mountain Street
Fayetteville, Arkansas

Re: VARIANCE FOR LACK OF PUBLIC ROAD FRONTAGE IN CONJUNCTION WITH A PROPOSED TRACT SPLIT LOCATED WITHIN FAYETTEVILLE GROWTH AREA -ADDRESS: 7002 JOHN GARRISON RD (WC 858), FAYETTEVILLE, AR 72704

Dear Planners / Planning Commission,

This is a request for a variance on public road frontage in conjunction with a proposed property division that is currently under review with the City of Fayetteville Planning Office; the property division involves Washington County Parcel ID, 001-17571-000. The address on the property is: 7002 John Garrison Road (WC 858), Fayetteville, AR. The property is located with the Fayetteville Growth Area, the unincorporated area of Washington County. Ms. Janice Knight is the property owner and has hired Alan Reid & Associates to represent her in taking the tract split and variance through the City of Fayetteville and Washington County Planning Office.

The parcel under discussion is 36.81+/- acres is proposed to be subdivided into two (2) pieces: Below is how the 36.81 +/- acres is proposed to be subdivided:

- Proposed Tract 'A' = 9.49+/- acres
The tract contains an existing house, 7002 John Garrison Rd. (WC 858).
The tract has road frontage onto John Garrison Road (WC 858).
- Proposed Tract 'B' = 27.32+/- acres is an undeveloped tract at this time and is proposed to be accessed via a 30' access & utility easement which connects the proposed tract to John Garrison Road (WC 858.)

This accessing of property via a 30' ingress/ egress easement is allowed through Washington County by both the Exemption process and Private Road Development process; however,

Washington County Subdivision Regulations require 75' of road frontage, if going by those standards. The Washington County Subdivision Regulations road frontage standards is what Alan Reid & Associates staff have been advised by Fayetteville Planning staff to request a variance from; but, through Fayetteville. In previous projects with similar situations the following Fayetteville code has been referenced by Fayetteville Planning staff, "*Per UDC 166.05 newly created lots are required to have frontage on a minimally improved public street...A PC variance will be required prior to approval of lot split*"

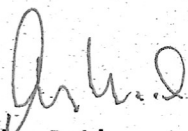
Following is some additional information on the subject property:

- Subject property is zoned through Washington County, Arkansas as residential (1 acre minimum) / agricultural, the proposed property division is in compliance with these regulations.

Granting the variance would allow owners of the one (1) additional proposed tracts continue to enjoy rights that other property owners enjoy in the surrounding area. The lot proposed is designed to allow a buildable tract with efficient access which minimizes multiple points of ingress/ egress. This is a situation that is unique to this property due to its configuration and minimal road frontage. Thank you for your consideration. ****Refer to drafted plat for further details regarding the project.***

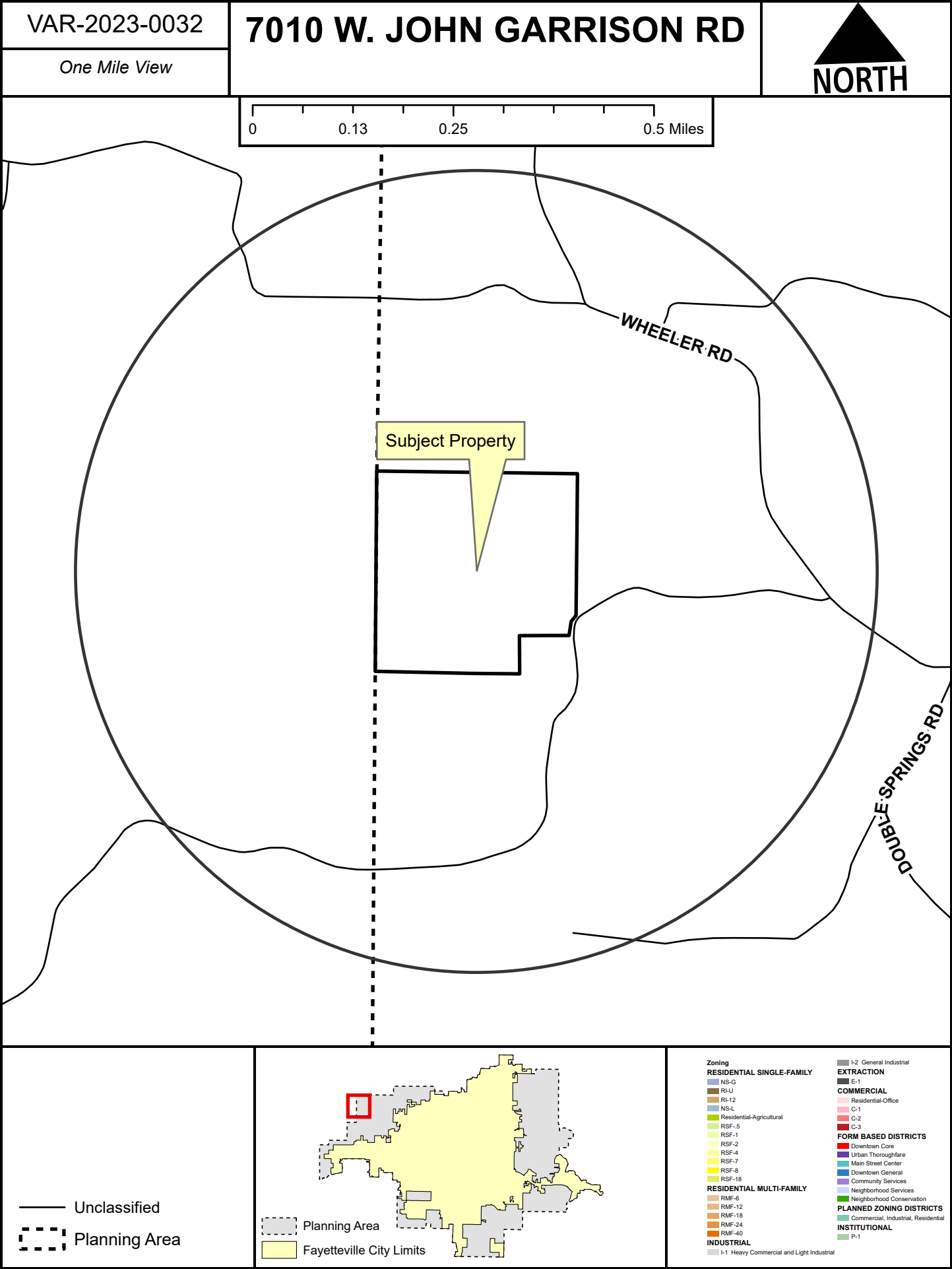
Please contact our office with any questions regarding the project.

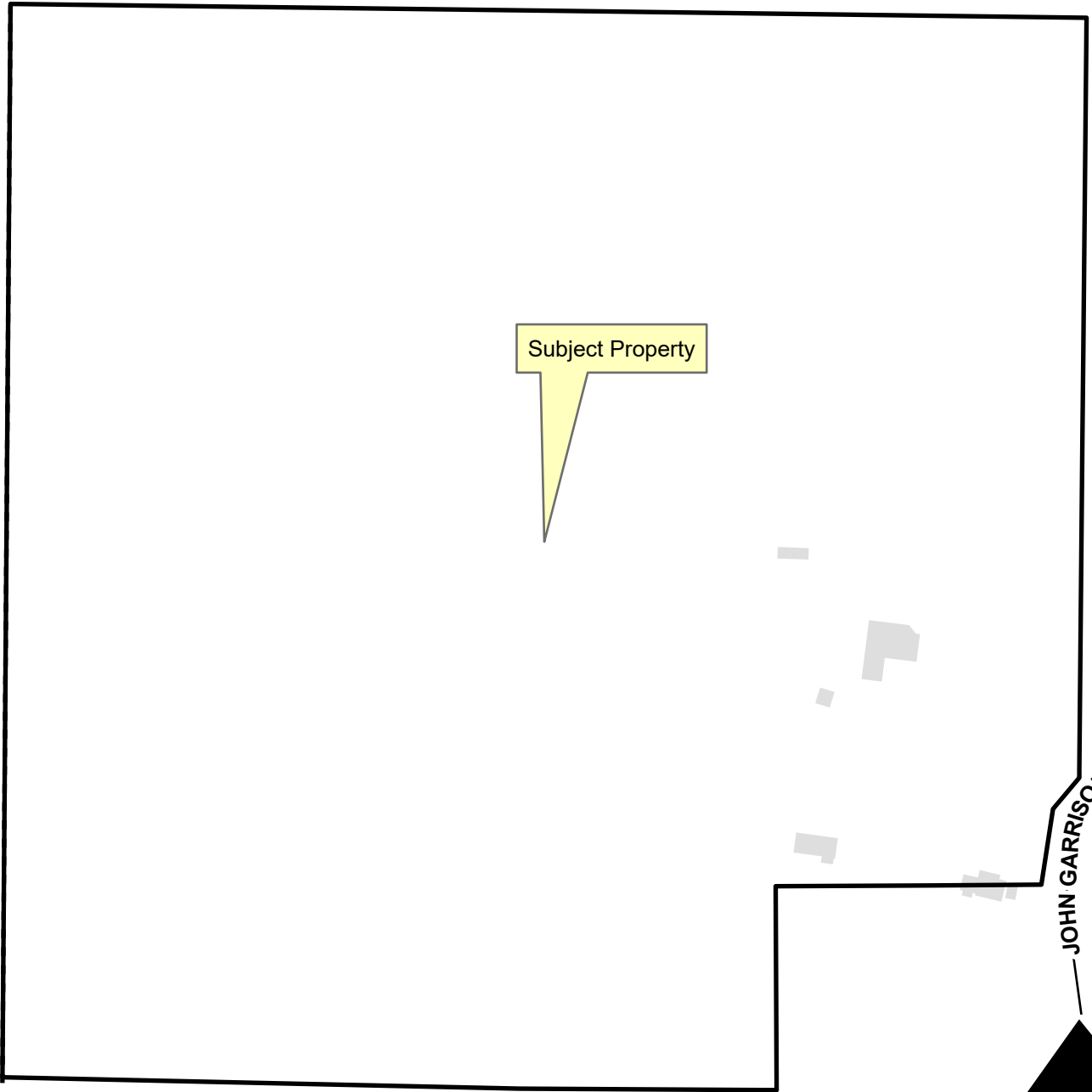
Best regards,



Alan Reid

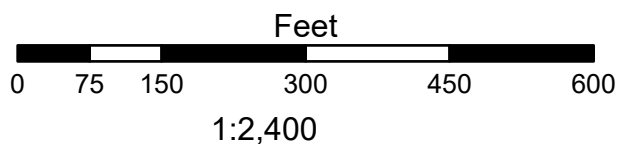
Professional Land Surveyor





NORTH

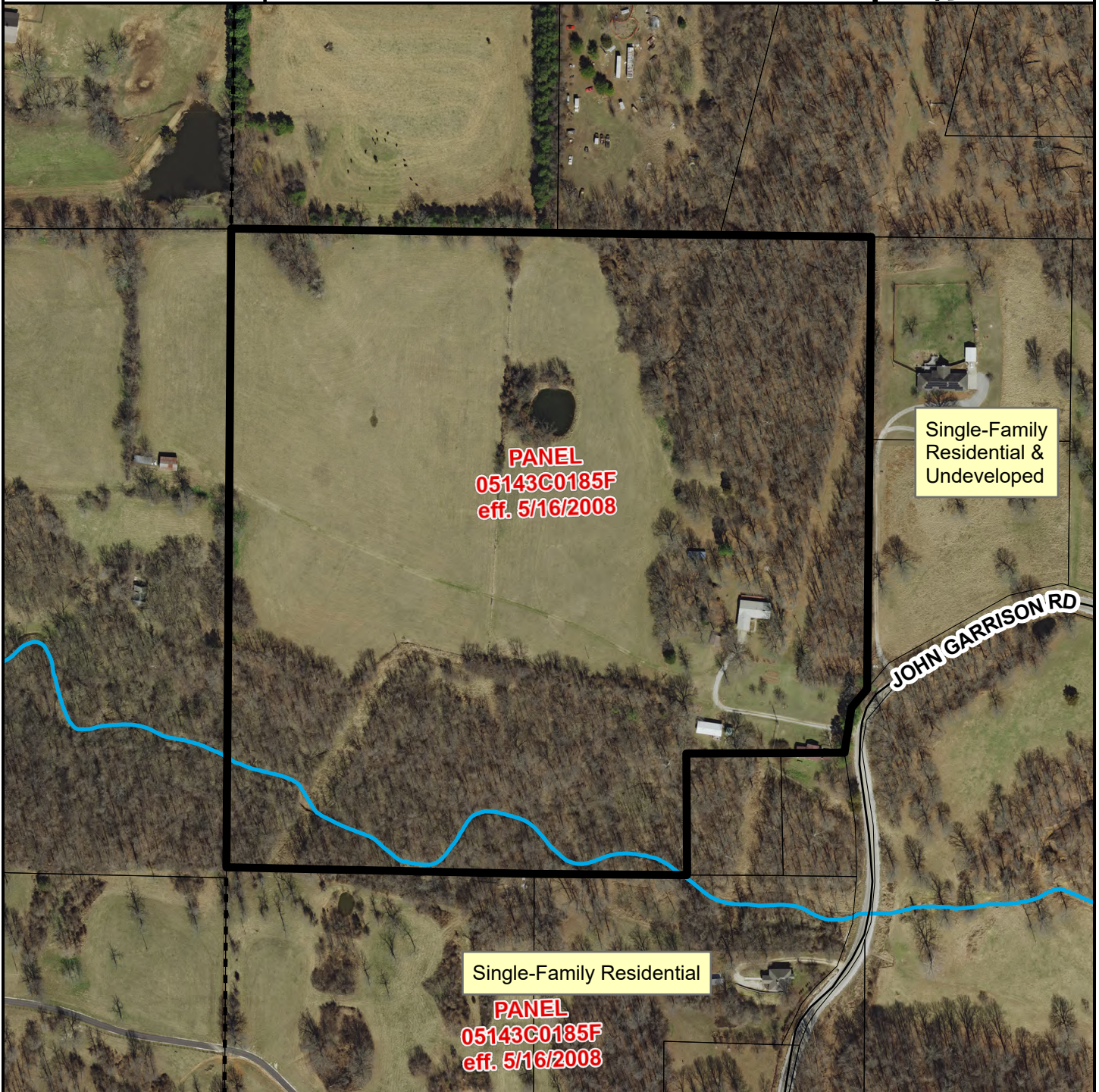
- Unclassified
- Hillside-Hilltop Overlay District
- Planning Area



VAR-2023-0032

7010 W. JOHN GARRISON RD

Current Land Use



— Unclassified
- - - Planning Area



FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Senior Planner
Josh Boccaccio, Engineering Development Review Manager
Melissa Evans, Urban Forester

MEETING: August 14, 2023

SUBJECT: **LSD-2022-0042: Large Scale Development (3120 W. OLD FARMINGTON RD./SOUTHERN WOODS CLUSTER DEVELOPMENT, 557):** Submitted by COMMUNITY BY DESIGN for property located at 3120 W. OLD FARMINGTON RD. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approximately 20.40 acres. The request is for 12 cluster housing developments with a total of 134 single-family units.

RECOMMENDATION:

Staff recommends approval of **LSD-2022-0042** with conditions.

RECOMMENDED MOTION:

*"I move to approve **LSD-2022-0042**, recommending:*

- *In favor of a variance to UDC §166.08(E),*
- *In favor of a variance to UDC §166.11,*
- *In favor of a variance to UDC §172.04(F),*
- *In denial of a variance to UDC §172.11(G), and*
- *In favor of all other conditions as recommended by staff."*

JULY 10, 2023 PLANNING COMMISSION MEETING:

On July 10, 2023, the Planning Commission voted to approve this item with conditions as recommended by staff.

JULY 24, 2023 PLANNING COMMISSION MEETING:

On July 24, 2023, the Planning Commission voted to reconsider this item at the request of the applicant. The Commission then voted to table the item until August 14, 2023 to give the applicant and staff additional time to prepare for the reconsideration.

BACKGROUND:

The subject property is located on the south slope of Millsap Mountain just north of Old Farmington Road. The property contains roughly 20.40 acres and it received its current zoning designation of NC, Neighborhood Conservation, as a result of a rezoning last year (RZN-2022-000011). A conditional use permit for 15 cluster housing developments containing a total of 162 single-family units was approved by the Planning Commission in January of 2022 (CUP-2021-000056). An amendment to the conditions of its approval was approved by the Planning Commission in June of 2022 (ADM-2022-0033) and a one-year extension was approved in April of 2023 (ADM-2023-0010). The development entitlement for three of the cluster housing developments included in the

CUP approval was approved by the Planning Commission in June of 2022 (LSD-2022-0014). Surrounding land uses and zoning are depicted in *Table 1*.

**Table 1:
Surrounding Land Uses and Zoning**

Direction	Land Use	Zoning
North	Single-Family Residential; Centennial Park	R-A, Residential-Agricultural; RSF-2, Residential Single-Family – 2 Units per Acre; RSF-4, Residential Single-Family – 4 Units per Acre
South	Single-Family Residential	R-A, Residential-Agricultural; RSF-4, Residential Single-Family – 4 Units per Acre; RPZD, Residential Planned Zoning District
East	Single-Family Residential	R-A, Residential-Agricultural; NC, Neighborhood Conservation
West	Centennial Park	R-A, Residential-Agricultural; RSF-2, Residential Single-Family – 2 Units per Acre

Proposal: The applicant requests large scale development approval to develop the subject property with 12 cluster housing developments containing a total of 134 single-family units. Four variances from the Unified Development Code have been requested as part of this project. Each variance is described further below alongside staff's recommendations:

- **§166.08(E): Street Design and Access Management Standards – Block Length/Connectivity.** On Residential Link streets, intersections shall occur at a minimum of one every 660 feet. Also, wherever a proposed development abuts undeveloped land, street stub-outs shall be provided to abutting properties. The applicant is requesting a variance from this standard along the west side of proposed Street D to allow a block length of approximately 1,000 feet and to provide no street stub-outs to the north.
 - *Staff recommendation: Staff is supportive of this variance request. A protected stream and FEMA-designated floodplain are currently present on the west side of the property, which limit the area to provide potential street stub-outs and have thus resulted in the applicant providing a street with a block length of 1,000 linear feet. Staff finds the presence of those natural features to constitute a hardship in this instance. With regard to the street stub-out to the north, the applicant has stated that the presence of steep terrain, tree preservation areas, and Centennial Park make a connection to the north undesirable. Staff is supportive of the applicant's request to not provide a street stub-out to the north given those considerations, and is supportive of their proposal to provide a pedestrian connection via a soft-surface trail that would connection the west end of Street E to the Centennial Park trail system.*
- **§166.11: Conformance to Plans and Regulations. Projects shall conform to the official plans and regulations that make up the Master Street Plan.** The applicant has requested to vary from the standard street section for a Residential Link, as outlined in the Master Street Plan, in order to install an additional on-street parking lane along the property's Old Farmington Road frontage.
 - *Staff recommendation: Currently, staff is supportive of the applicant's request to vary from the street section for a Residential Link street in order to install an additional parking lane on the north side of Old Farmington Road. As noted by the applicant, the inclusion of an additional parking lane along the street would help to reduce the speed of vehicular traffic and result in increased safety for both vehicles and pedestrians. Nevertheless, Engineering staff has expressed concerns about*

sight distances, particularly along Old Farmington Road, and needs additional time to fully evaluate whether the inclusion of some, or all, of the parking on Old Farmington may constitute a traffic hazard. Regardless, staff recommends in favor of allowing the applicant to provide an additional parking lane along the north side of the street.

- **§172.04(F)(4)(a)(iv): Parking Lot Design Standards – Effective Curb Radius. All driveways serving nine or more parking spaces shall have an effective curb radius of 15 feet for curb cuts on Residential Link streets.** The applicant is requesting a variance to allow driveways to have an effective curb radius of zero feet.
 - *Staff recommendation: Staff is supportive of this variance request. While the applicant is not meeting the letter of the code, they are demonstrating an effort to meet the intent by designing streets and curb cuts in a way that slow vehicle turning motions to improve pedestrian safety. The applicant suggests that the typical requirement would likely require the sidewalk to change course to make room for a driveway apron and may encourage higher vehicle turning speeds. Staff finds that the context of the development, among a planned series of cluster developments, supports the use of a narrower driveway apron. While a smaller curb radius may not be appropriate in other situations, a low vehicle volume and slower traffic speeds may be complementary to the development pattern while improving traffic safety. Accordingly, staff finds that the requested variance would not adversely impact vehicular or pedestrian safety and is thus supportive of it.*
- **§172.11(G)(2): Driveway Standards – Driveways Beyond the Property Line. To prevent vehicles from parking over the public sidewalk, garages and carports shall be positioned to provide at least 18 feet between the sidewalk or Master Street Plan right-of-way line and the garage or carport.** The applicant is requesting a variance from this standard along the north side of proposed Street E to allow for driveways with lengths ranging between 13 and 15 feet.
 - *Staff recommendation: Staff is not supportive of this variance request. The intent of this standard is to prevent vehicles from parking over sidewalks in a manner that blocks pedestrian access. Given the length of the proposed driveways, staff finds that vehicles are likely to park in driveways in a manner that encroaches into the public sidewalk and street and may create a dangerous condition for both vehicles and pedestrians.*

Right-of-Way to be Dedicated:

Old Farmington Road: The subject property has frontage along Old Farmington Road, a partially improved Residential Link street. The property currently has 26 feet of right-of-way from the centerline of the road, and staff recommends that roughly eight additional feet of right-of-way be dedicated to accommodate a 10-foot sidewalk in line with the City's Active Transportation Plan, as well as the requested additional parking lane.

Internal Streets: The applicant proposes Alternative Residential Link streets throughout the development. Staff recommends that right-of-way be dedicated along all internal streets in the amount of 34 feet to align with the approved conditions of the associated conditional use permit.

Street Improvements:

Old Farmington Road: Old Farmington Road is a partially improved Residential Link street with asphalt paving and open ditches. Staff recommends that the property's Old Farmington Road frontage be improved as a Residential Link with 10-foot sidewalk, six-foot greenspace, and curb

and gutter. The applicant has shown an intent to dedicate additional right-of-way to accommodate a second on-street parking lane along Old Farmington Road, though a request to vary from the street section for a Residential Link would be required to improve the street as proposed.

Internal Streets: Alternative Residential Link streets with 34-foot-wide right-of-way are proposed throughout the development. Staff recommends that all internal streets be improved as required by the associated conditional use permit. Improvements include a five-foot sidewalk, curb and gutter, and asphalt paving within the right-of-way, and a five-foot sidewalk with five-foot greenspace in a 10-foot easement adjacent to the right-of-way. Infrastructure outside of the right-of-way would be owned and maintained by a property owners association.

Additional Improvements: Based on the provided traffic study from the previous phase of the development, the Engineering Division is recommending that the developer be responsible for a portion of infrastructure improvements at the intersection of Martin Luther King Jr. Boulevard and One Mile Road. The applicant has provided an estimate for widening the north leg of the intersection to include a southbound left-turn lane, southbound thru/right-turn lane, and northbound receiving lane. The estimate also includes costs for modifying the traffic signal for north and south bound movements. The total estimate is \$193,068.04. Planning Commission previously approved an assessment of \$15,831.58 which is 8.2% of the cost based on 132 vehicles, or 50% of the previous phase's two-way site generated weekday traffic and the existing traffic volumes traveling southbound on One Mile Road. Using the same traffic study and remaining trip generation, staff recommends that the applicant be responsible for **39.3%, or \$75,875.74**, of the improvement cost. The two-way site generated traffic is 1,265 trips and 50% of those trips are assumed to use the signal.

Access Management/Connectivity: Staff has determined that the project is partially compliant with the City's access management and connectivity standards. Vehicular access is primarily proposed through separate parking courts that are intended to serve each development, though some units on the north side of the property have direct access to a public street. A variance to the City's block length standards has been requested as outlined above.

Design Standards: As cluster housing developments, this project is subject to the design standards outlined in Unified Development Code §164.22, Cluster Housing Development. The proposal appears to meet the cluster housing requirements for density, bulk and area, setbacks, and building height. The cluster housing requirements for parking and variation in unit floor plans and architectural treatments have also been met. More information is needed to confirm that the common and private open space requirements for cluster housing are being met as part of this proposal.

Water and Sewer System: The applicant is proposing to extend eight-inch water mains through the site to provide fire protection and domestic water. The applicant is also proposing to extend eight-inch sewer mains through the site to provide sanitary sewer.

Parkland dedication or fee in-lieu: This proposal was discussed by the Parks and Recreation Advisory Board (PRAB) at their March 7, 2022 meeting. PRAB recommended fee in-lieu for this development in the amount of \$145,926 based on 134 single-family units. Fee in-lieu must be paid prior to the issuance of building permits.

Tree Preservation:

Canopy minimum requirement: 21%

Existing canopy: 61.2%

Preserved canopy: 25.6%
Mitigation required: None

Public Comment: To date, staff has received no public comment on this item.

RECOMMENDATION: Staff recommends approval of **LSD-2022-0042** with the following conditions:

Conditions of Approval:

1. **Planning Commission determination of right-of-way dedication.** *Staff recommends right-of-way dedication as follows:*
 - a. Old Farmington Road: *Staff recommends right-of-way dedication in the amount of roughly 34 feet from the centerline of the road.*
 - b. Internal Streets: *Staff recommends right-of-way dedication in the amount of 34 feet along all interior streets as required by the associated conditional use permit.*

Subdivision Committee recommended in favor of right-of-way dedication.

2. **Planning Commission determination of street improvements.** *Staff recommends street improvements as follows:*
 - a. Old Farmington Road: *Staff recommends that the property's Old Farmington Road frontage be improved with 10-foot sidewalk, six-foot greenspace, and curb and gutter.*
 - b. Internal Streets: *Staff recommends that all internal streets be improved with a five-foot sidewalk, curb and gutter, and asphalt paving within the right-of-way, and a five-foot sidewalk with five-foot greenspace in a 10-foot easement adjacent to the right-of-way as required by the associated conditional use permit.*
 - c. Additional Improvements: *Staff recommends that the applicant is assessed a \$75,875.74 fee in-lieu for planned improvements to the intersection of Martin Luther King Jr. Boulevard and One Mile Road.*

Subdivision Committee recommended in favor of street improvements.

3. **Planning Commission determination of a variance to UDC §166.08(E): Street Design and Access Management Standards – Block Length/Connectivity.** *Staff recommends approval of the variance for the reasons stated above;*

Subdivision Committee recommended in favor of this variance.

4. **Planning Commission determination of a variance to UDC §166.11: Conformance to Plans and Regulations.** *Staff recommends approval of this variance for the reasons stated above;*

Subdivision Committee made no recommendation on this variance.

5. **Planning Commission determination of a variance to UDC §172.04(F)(4)(a)(iv): Parking Lot Design Standards – Effective Curb Radius.** *Staff recommends approval of this variance for the reasons stated above;*

Subdivision Committee recommended in favor of this variance.

6. **Planning Commission determination of a variance to UDC §172.11(G)(2): Driveway Standards – Driveways Beyond the Property Line.** *Staff recommends denial of this variance for the reasons stated above;*

Subdivision Committee made no recommendation on this variance.

7. Remaining comments from the Planning Division shall be addressed, including:
- Each unit must have 250 SF of private open space with no dimension of less than ten feet. There appear to be numerous instances where private open space is significantly less than required.
 - Confirm width of driveways on all lots on the north side of Street E. Driveway widths shall comply with the maximums in UDC §172.11(J).
 - Public sidewalk cannot overlap with common open space. See comment from Engineering about sidewalk location and confirm common open space totals for each cluster development.
 - Dimension width of proposed street R/W from centerline.
8. All conditions of approval of the associated conditional use permit (CUP-2021-000056) shall be met;
9. Conditions of approval from Engineering and Urban Forestry are included in the official conditions of approval, attached hereto;

Standard Conditions of Approval:

10. Impact fees for fire, police, water, and sewer shall be paid in accordance with City ordinance;
11. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or their representative, and all comments from utility representatives: Black Hills Energy, AT&T, Ozarks, SWEPCO, and Cox Communications);
12. All mechanical/utility equipment (roof and ground mounted) shall be screened using materials that are compatible with and incorporated into the structure. A note shall be clearly placed on the plat and all construction documents indicating this requirement;
13. Trash enclosures shall be screened on three sides with materials complimentary to and compatible with the principle structure. Containers may also be screened from view of the street by the principal structure or vegetation. Elevations of the proposed dumpster enclosure shall be submitted to the Planning and Solid Waste Divisions for review prior to building permit;
14. All existing utilities below 12kv shall be relocated underground. All proposed utilities shall be located underground;
15. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements;

16. All exterior lights shall comply with the City lighting ordinance. Manufacturer's cut-sheets are required for review and approval prior to issuance of a building permit;
17. All freestanding and wall signs shall comply with ordinance specifications for location, size, type, number, etc. Any proposed signs shall be permitted by a separate sign permit application prior to installation. Freestanding pole signs and electronic message boards (direct lighting) are prohibited in the I-540 Design Overlay District;
18. Large scale development approval shall be valid for one year;
19. Contact the City's Emergency 911 Address Coordinator for addressing prior to building permit;
20. Prior to building permit, a cost estimate for all required landscaping is to be submitted to the Landscape Administrator for review. Once approval is gained, a guarantee is to be issued (bond/letter of credit/cash) for 150% of the cost of the materials and installation of the plants. This guarantee will be held until the improvements are installed and inspected, at the time of Certificate of Occupancy; and
21. Prior to the issuance of a building permit the following is required:
 - a. Grading and drainage permits;
 - b. Separate easement plat for this project that shall include the tree preservation area and all utility and access easements;
 - c. Exterior lighting package must be provided to the Planning Division;
 - d. An on-site inspection by the Landscape Administrator of all tree protection measures prior to any land disturbance;
 - e. Project Disk with all final revisions; and
 - f. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by Section 158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>August 14, 2023</u>	☐ Tabled	☐ Forwarded	☐ Denied
Motion:			
Second:			
Vote:			

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

- Engineering Memo

- Urban Forestry Comments
- Request Letter
- Variance Request Letters
- Site Plan
- Elevations
- One Mile Map
- Close-up Map
- Current Land Use Map



TO: Gretchen Harrison, Senior Planner

FROM: Josh Boccaccio, Engineering Development Review Manager

DATE: June 26, 2023

SUBJECT: Subdivision Committee Engineering Comments for
LSD-2022-0042 3220 W Old Farmington Rd LSD

*****Engineering recommends this project be tabled*****

Water: The applicant is proposing to extend 8" water mains through the site to provide fire protection and domestic water.

Sewer: The applicant is proposing to extend 8" sewer mains through the site to provide sanitary sewer.

Natural Features: A portion of the site is shown to potentially have hydric soils which are indicators of possible wetlands. A wetland delineation must be provided at grading permit for the areas shown to potentially have hydric soils. Additionally, there is a protected stream that is present on portions of the western edge of the project.

Drainage: This project must meet the 4 minimum standards outlined in Fayetteville's Drainage Criteria Manual. Water Quality is proposed to be met through the use of multiple infiltration trenches, permeable pavement features, and bioretention. Channel protection is proposed to be met at the detention pond by holding the increase in volume for the 1-years storm and releasing it over 40 hours. At study points 2, 3, and 4 the post development volume for the 1-year is not more than the 1-year pre-developed volume. Overbank and Extreme Flood Protection are proposed to be met with an underground detention pond and the previously mentioned features. Additional review will be performed during grading permit.

Streets/Traffic: The applicant is proposing to extend public residential streets through the development. Based on the provided traffic study from a previous phase of the development (LSD-2022-0014), the Engineering Division is recommending the developer be responsible for a portion of the infrastructure improvements at Martin Luther King, Jr. Blvd and One Mile Rd. The applicant has provided an estimate for widening the north leg of the intersection to include a southbound left-turn lane, southbound thru/right-turn lane, and northbound receiving lane. The estimate also includes costs for modifying the traffic signal for north bound and south bound movements. **The total estimate is \$193,068.04.** Planning Commission previously approved an assessment of \$15,831.58 which is 8.2% of the cost based on 132 vehicles or 50% of the previous phase's two-way site generated weekday traffic and the existing traffic volumes traveling southbound on One Mile Rd.

Using the same traffic study and remaining trip generation staff recommends the applicant be responsible for **39.3%, or \$75,875.74** of the improvement cost. The two-way site generated traffic is 1,265 trips and 50% of those trips (632.5) are assumed to use the signal.

Plan Comments:

1. Provide a letter for all requests for a city engineer determination.
2. The intersection angle of Street A and D does not meet the city's minimum street standards.
3. Provide sight distance exhibits for review.
4. Sidewalk along Old Farmington Rd must be encompassed by right-of-way.
5. If parking is permitted on both sides of Old Farmington Rd by Planning Commission, striping must be installed by this development.
6. Additional information is needed on how the storm sewer will function along street B.
7. All bioretention and infiltration water quality features must meet DCM requirements. For grading permit provide documentation standards are being met.
8. Additional comments on plans.

Standard Comments:

1. All designs are subject to the City's latest design criteria (water, sewer, streets and drainage). Review for plat approval is not approval of public improvements, and all proposed improvements are subject to further review at the time construction plans are submitted.
2. Any damage to the existing public street due to construction shall be repaired/replaced at the owner/developers expense
3. All public sidewalks, curb ramps, curb & gutter, and driveway aprons along this project frontage must meet ADA guidelines and be free of damage. Any existing infrastructure that does not conform to ADA guidelines or is otherwise damaged must be removed and replaced to correct the issue. Coordinate with the engineering department for inspection of existing facilities to determine compliance.
4. Water and sewer impact fees will apply for the additional impact to the system. The fees will be based on the proposed meter size and will be charged at the time of meter set.
5. Note, the following portions of all projects will typically not be reviewed by the Engineering Division until time of construction-level review (unless specifically requested at plat review):
 - Storm Sewer pipe/inlet sizing, gutter spread, profiles, or utility conflicts
 - Sanitary Sewer pipe sizing, profiles, or utility conflicts
 - Waterline fittings, callouts, or utility conflicts
 - Street profiles
 - Fine grading/spot elevations



URBAN FORESTRY TREE PRESERVATION COMMENTS

To: Brian Teague, Community By Design

From: Melissa Evans, Urban Forestry

CC: Gretchen Harrison, Planner

Meeting Date: May 31, 2023

Subject: LSD-2022-0042: Southern Woods Cluster Development (Ph 3); 3120 W. Old Farmington Rd., 557

1. Submittal Requirements	Yes	No	N/A
Initial Review with the Urban Forester	X		
Site Analysis Map Submitted (if justification is needed)			X
Site Analysis Written Report Submitted (justification is needed)			X
Complete Tree Preservation Plan Submitted	X		
Tree Mitigation Table on Plans	X		
Tree Preservation Wavier Submitted (only use if no trees onsite or near P/L)			X

2. Tree Preservation Calculations

Tree Preservation Calculations *		
	Square Feet	Percent of site
Total Site Area *Minus Right of Way and Easements	810,905	100%
Zoning Designation * Select Below with drop down arrow		
NC-Neighborhood Conservation	162,181	21% weighted average*
HHOD * Select Below with Drop Down Arrow		
No 25.6% of property is in HHOD*	0	0%
Total Canopy for Minimum Preservation Requirements	162,181	21.3%
Existing Tree Canopy * Minus Right of Way and Easements	496,258	61.2%
Tree Canopy Preserved	207,531	25.6%
Tree Canopy Removed *On Site	288,727	35.6%
Tree Canopy Removed *Off Site	0	
Tree Canopy Removed Total	288,727	35.6%
Removed Below Minimum	0	
Mitigation Requirements	0	

***Please see comment #2 in the comments at the end of this document.**

3. Mitigation Requirements	Canopy below requirement	Number of 2" caliper trees to be planted
High Priority	0	0
Low Priority	0	0
Total Mitigation Trees Required	0	0

4. Mitigation Type	Yes	No	N/A
On-Site Mitigation	X		
Off-Site Mitigation Preservation	X		
Tree Escrow (See Conditions of Approval)			X

5. Tree Preservation Plan Checklist <i>UDC Chapter 167.04H1</i>	Tech Plat	Subdivision Committee	Planning Commission
a. 5 year Aerial Check on Existing Trees	Yes		
b. Property Boundary	Yes		
c. Natural Features (100ft beyond limits of disturbance)	Yes		
d. Existing Topography and Proposed Grading	Yes		
e. Soil Types	Yes		
f. Significant Trees	NO		
g. Groupings of Trees	Yes		
h. Table Inventory List (species, size, health, priority)	NO		
i. All Existing and Proposed Utilities	Yes		
j. All Existing and Proposed Utility Easements and ROW's	Yes		
k. All Streams (with approximate center line)	Yes		
l. Floodplains and floodways	N/A		
m. Existing Street, Sidewalk or Bike Path ROW	Yes		
n. Submitted Site Analysis Plan (if required)	N/A		
o. Shows ALL Proposed Site Improvements	Yes		
p. Delineates trees/canopy to be preserved and removed	Yes		

Tree Protection Methods

a. Tree Protection Fencing	Yes
b. Limits of Root Pruning	Yes
c. Traffic flow on work site	N/A
d. Location of material storage	NO
e. Location of concrete wash out	NO
f. Location of construction entrance/exit	NO

6. Site Analysis Report (if required) <i>UDC Chapter 167.04H4</i>	Yes	No	N/A
a. Provide graphic examples of multiple options used to minimize removal of existing canopy			X
b. Submitted Analysis Statement – Note the process, iterations, and approaches to preserve canopy.			X
7. Review Status (See Comments)	Tech Plat	Subdivision Committee	Planning Commission
Conditionally Approved	12-22-22 05-11-23 05-25-23		
Approved			
Tabled			
Denied			

Appeal Process: A final administrative determination by the Urban Forester may be appealed in accordance with Chapter 155 of the Unified Development Code.

Comments
1. Address items above marked “No” and all Redlines provided.
2. Please do not count the entire site area including other phases in the calculations. The other phases were considered individually and this one should be too. Please address this comment with the next revisions or this might be tabled at Subdivision Committee.
3. Please show an existing tree inventory or show what types of trees exist on the plan.



URBAN FORESTRY LANDSCAPE PLAN COMMENTS

To: Brian Teague, Community By Design

From: Melissa Evans, Urban Forestry

CC: Gretchen Harrison, Planner

Meeting Date: May 31, 2023

Subject: LSD-2022-0042: Southern Woods Cluster Development (Ph 3): 3120 W. Old Farmington Rd., 557

1. General Landscape Plan Checklist		Yes	No	N/A
a.	Irrigation (notes either automatic or hose bib 100' o.c.) <i>UDC Chapter 177.03C7g, 177.04B3a</i>	X		
b.	Species of plant material identified <i>UDC Chapter 177.03C7d,e</i>	X		
c.	Size of plant material (minimum size 2" caliper for trees and 3 gal. shrubs) <i>UDC Chapter 177.03C7b,c</i>	X		
d.	Soil amendments notes include that soil is amended and sod removed <i>UDC Chapter 177.03C6b</i>	X		
e.	Mulch notes indicate organic mulching around trees and within landscape beds <i>UDC Chapter 177.03C6c,d</i>	X		
f.	LSD, LSIP, and Subdivisions (PPL & FPL) plans stamped by a licensed Landscape Architect, others by Landscape Designer <i>UDC Chapter 177.03B</i>		X	
g.	Planting bed contained by edging <i>UDC Chapter 177.03C6f</i>	X		
h.	Planting details according to Fayetteville's Landscape Manual <i>UDC Chapter 177.03C6g</i>	X		
i.	Provide information about 3-Year Maintenance plan. The owner shall deposit with the City of Fayetteville a surety for approved landscape estimate. <i>UDC Chapter 177.05 A2g</i>	X		
2. Parking Lot Requirements		Yes	No	N/A
1 Tree : 12 Parking Spaces				
a.	Wheel Stops/Curbs <i>UDC Chapter 177.04B1</i>	X		

b.	Narrow Tree Lawn (8' min. width, 37.5' length) <i>UDC Chapter 177.04C</i>			X
c.	Tree Island (8' min. width, 18.7' min length OR 150 square feet) <i>UDC Chapter 177.04C</i>		X	
d.	Placement of Trees (either side at entrances and exits) <i>UDC Chapter 177.04C2</i>	X		
3. Perimeter Landscaping Requirements		Yes	No	N/A
a.	Front Property Line (15' wide landscape) and five on sides. <i>UDC Chapter 177.04D2a</i>			X
b.	Side and Rear Property Lines (5' Wide Landscape Area) <i>UDC Chapter 177D1</i>	N/A		
c.	Shade trees planted on south and west sides of parking lots <i>UDC Chapter 177.04D2e</i>			X
d.	Screening of parking lot from adjacent residential properties.			X
4. Street Tree Planting Requirements		Yes	No	N/A
a.	Residential Subdivisions 1 Large Shade Species Tree per Lot <i>UDC Chapter 177.05B1a</i>		X	
b.	Non-Residential Subdivisions 1 Large Species Shade Tree every 30' (planted in greenspace) <i>UDC Chapter 177.05B2a</i>			X
c.	Urban Tree Well – Urban Streetscapes Trees every 30' (8' sidewalk) <i>UDC Chapter 177.05B3a-f</i>			X
d.	Structured Soil – Urban Tree Wells Include a note and/or detail of structural soil on Landscape Plan <i>UDC Chapter 177.05B3a-f</i>		X	
e.	Residential Subdivisions Timing of planting indicated on plans <i>UDC Chapter 177.05A4</i>			X
f.	Residential Subdivisions Written description for method of tracking planting <i>UDC Chapter 177.05A4e</i>			X

5. Landscape Requirement Totals	Amount
Mitigation Trees	0
Parking Lot Trees	1/12 spaces required
Street Trees	1/Lot, 2/corner lots, 1/30 along Old Farmington Rd.
Detention Pond – Large Trees (1 Tree/3,000 square feet)	0
Detention Pond – Small Tree/Large Shrub (4 small trees or large shrubs/3,000 square feet)	0
Detention Pond – Small Shrubs/Large Grasses (6 shrubs or grasses (1 gallon)/3,000 square feet)	0

6. Review Status (See Comments)	Tech Plat	Subdivision Committee	Planning Commission
Conditionally Approved	12-22-22	05-11-23	05-25-23
Approved			
Tabled			
Denied			

Appeal Process: A final administrative determination by the Urban Forester may be appealed in accordance with Chapter 155 of the Unified Development Code.

Comments
1. Address items above marked “No” and all Redlines provided.
2. The landscape plan is required to be stamped by a landscape architect.
3. Please provide a few more tree species for diversity.
4. Please make sure that parking lot trees are placed as close to parking lots at possible since the intent is that they shade the parking lot.
5. Corner lots are required to have one street lot tree per street (so usually 2 trees per corner lot).
6. Please label trees on the plan with a “S” or “P” to distinguish street trees from parking trees.

May 22, 2023
Via EnerGov

Ms. Gretchen Harrison, Planner
City of Fayetteville
125 West Mountain Street
Fayetteville, Arkansas 72701

RE: **3220 W. Old Farmington Road – LSD 2022 0042**
Revisions Submittal

Ms. Harrison,

As a representative of the property owner at Washington County Parcel 765-14759-000, the following files have been uploaded to EnerGov as a part of a large scale development application re-submittal in association with LSD 2022 0042:

- One (1) copy of a written submittal letter
- One (1) copy of revised site, utility, grading, tree preservation, and landscape plans
- One (1) copy of applicant annotated responses to plan comments
- One (1) copy of a variance request for the proposed driveway apron
- One (1) copy of a variance request for the proposed street connectivity and block length
- One (1) copy of a variance request for the proposed driveways on the north side of Street E
- One (1) copy of a variance request for the proposed water quality features
- One (1) copy of a variance request for the proposed C3 curve length
- One (1) copy of a variance request for the proposed Street B and D K-values
- One (1) copy of a variance request for sight distance

More information is needed in order to compose the Streamside Protection Zone variance request. This will be provided after speaking with the SPZ Administrator. A variance requests for the proposed intersection angle at Streets A and D may also be provided at that time.

Revisions to the drainage report are not provided at this time but will be included with the next submittal.

Sincerely,



Brian Teague
Community By Design

100 West Center Street Suite 300
Fayetteville, AR 72701

479.790.6775
Planning Commission

August 14, 2023

May 22, 2023

Via Email: gharrison@fayetteville-ar.gov

Ms. Gretchen Harrison, Planner
City of Fayetteville
125 West Mountain Street
Fayetteville, Arkansas 72701

RE: **LSD-2022-0042 – Street Connectivity and Proposed Street D Block Length West Side**

Ms. Harrison,

On behalf of the owners and the developers of the proposed development, please allow this letter to serve as a request for a variance from required street connectivity and the required block length along the west side of the proposed Street D. The development plan offers vehicular and pedestrian connectivity in the form of 14 articulated smaller City blocks where vehicular and/or pedestrian connectivity is provided on all 4 sides of the smaller blocks.

Street connectivity is provided to the east in 2 locations and to the south in 2 or more locations. A third street connection could potentially be made to the east however the steep terrain and an existing tree preservation easement make it less desirable. Pedestrian connectivity is proposed at this third location.

A street connection to the north is not desirable for the same reasons. The steep terrain, tree preservation, and Centennial Park make the connection to the north undesirable. The 1 private parcel to the north has access via S. Mount Millsap Lane. Pedestrian connectivity to the north is planned via a primitive trail that would connect the west end of proposed Street E to the Centennial Park trail system.

The vehicular block length proposed along the west side of Street D is approximately 1,000 feet while 660 feet is required. Vehicular block lengths along the east side of Street D average 333', while pedestrian block lengths along both the west and east sides of Street D on average are closer to 200'. Despite the increased block length along its west side this proposed Street D offers ample connectivity.

A vehicular street connection to the west of Street D seems undesirable given the steep terrain and a boundary shared by the subject property and Centennial Park. The connection to the west is further encumbered by the North Fork of Farmington Branch and associated Streamside Protection Zones, which extend approximately half way across the west side of the subject property. The 2 private parcels between the project and Centennial Park are developed with an access easement granted through the subject property south to Old Farmington Road. Pedestrian Connectivity is proposed along the west side of the subject property that will ultimately connect the Centennial Park trail system to the proposed City trail along the north side of Old Farmington Road.

Thank you for your consideration of these alternatives. Please let me know if you have any questions or concerns or need additional information.

Sincerely,



Brian Teague
Community By Design
brian@communitybydesignllc.com
479-790-6775

June 28, 2023

Via Email: gharrison@fayetteville-ar.gov

Ms. Gretchen Harrison, Planner
City of Fayetteville
125 West Mountain Street
Fayetteville, Arkansas 72701

RE: **LSD-2022-0042 – Master Street Plan Variance Request**

Ms. Harrison,

On behalf of the owners and the developers of the proposed 3220 W. Old Farmington Road Large Scale Development, please allow this letter to serve as a variance request from the Master Street Plan (MSP) Residential Link Cross Section. The variance is requested in order to allow parallel parking on both sides of a Residential Link Street or Old Farmington Road. Currently parallel parking exists on the south side of the street. The proposal is to widen the pavement to allow for parallel parking on the north side of the street. The proposed cross section is in accordance with the MSP Residential Link Cross Section except that parallel parking is proposed for both sides of the street not just one. The total proposed cross section is shown on the attached Exhibit #1.

The inclusion of parallel parking on both sides of the street will calm traffic and reduce the speeds of vehicular traffic passing through, making the street safer for both vehicles and pedestrians.

Thank you for your consideration of these alternatives. Please let me know if you have any questions or concerns.

Sincerely,



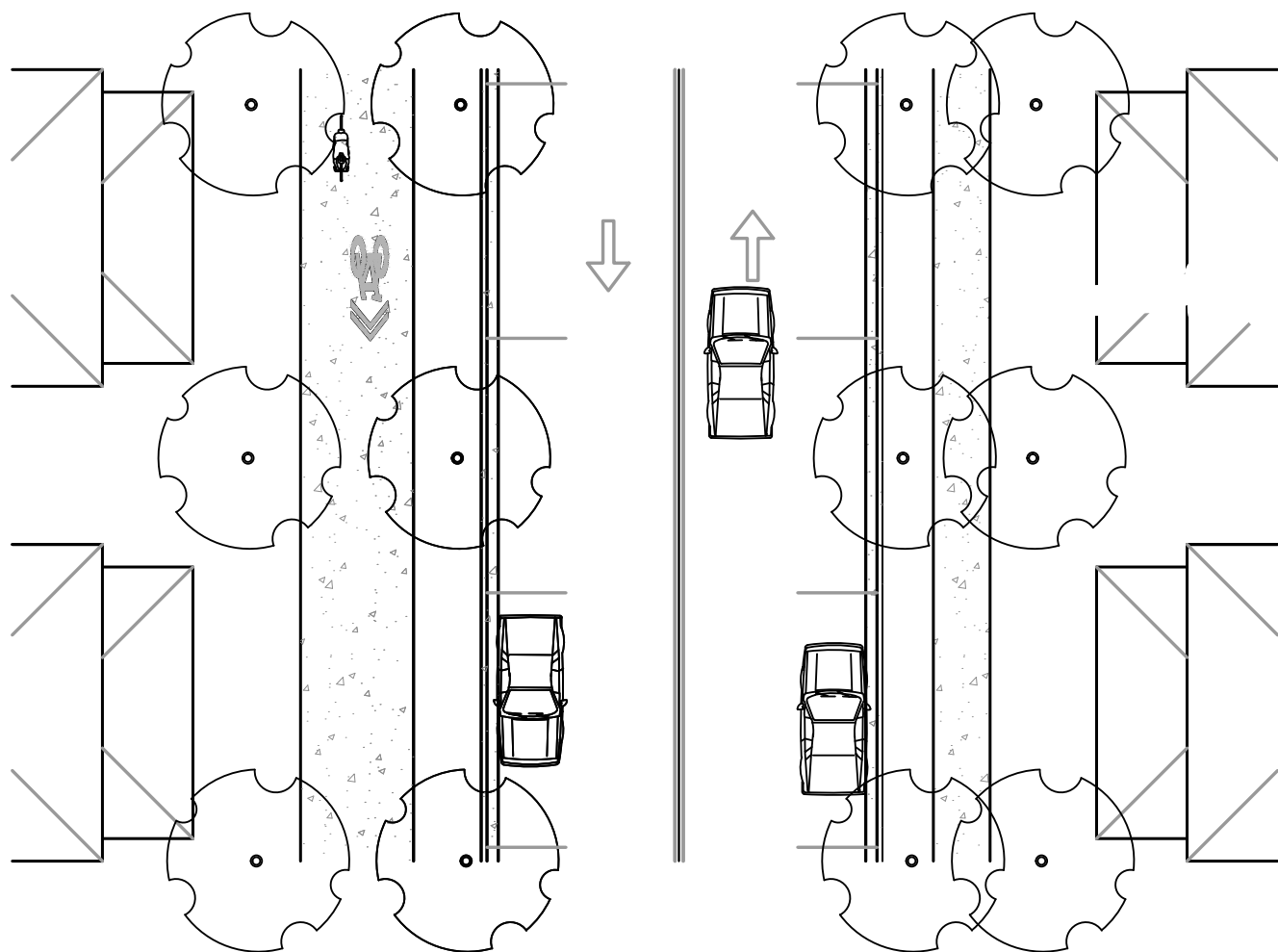
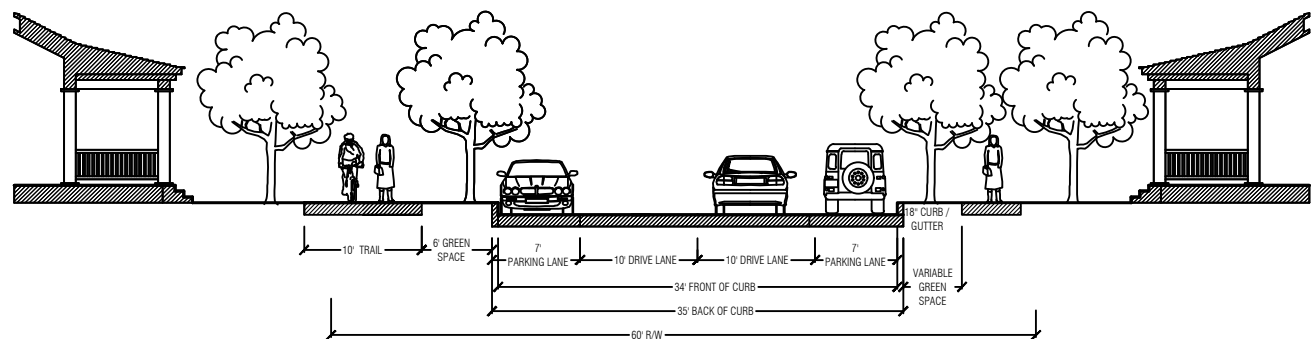
Brian Teague
Community By Design

100 West Center Street Suite 300
Fayetteville, AR 72701

479.790.6775
Planning Commission

August 14, 2023

EXHIBIT #1 - PROPOSED STREET CROSS SECTION
OLD FARMINGTON ROAD LOOKING EAST



May 22, 2023

Via Email: gharrison@fayetteville-ar.gov

Ms. Gretchen Harrison, Planner
City of Fayetteville
125 West Mountain Street
Fayetteville, Arkansas 72701

RE: **LSD-2022-0042 – Driveway Apron Variance Request**

Ms. Harrison,

This is the same variance for the proposed driveway apron that was granted by the Planning Commission in 2022 for LSD-2022-0014 or lots 8, 9, and 10 of the same development, CUP 2021 000056. CUP 2021 00056 was granted a master street plan variance in order to utilize a more compact, hillside friendly street cross section. This variance request is in association with the varied street cross section approved for this project.

Please allow this letter to serve as a request to allow the driveway apron as proposed on the project's current site plans dated May 22, 2023. The driveway apron configuration is detailed on sheet 7 of the plans. As proposed the driveway apron configuration allows the sidewalk to continue its course parallel to the street across the driveway. This configuration gives priority to the pedestrian crossing the driveway and signals to the vehicle operator to slow down as it crosses the sidewalk. The required 15' effective turn radius is provided per UDC 172.04(F)(4)(a)(iv). All vehicles will still be able to make the turn with ease, but at a slower speed.

Alternatively, configuring the driveway apron per the standard commercial driveway detail would likely require the sidewalk to change its course to make room for the apron, in effect requiring the pedestrian to walk around the apron. This configuration can signal to the vehicle operator that the vehicle has the right of way through its intersection with the sidewalk. Configuring the curbs with a radius signals a clearer vehicle path which may encourage higher speeds through the intersection with the sidewalk.

The driveway apron configuration as shown will make the pedestrian the priority and should require vehicles to travel slower as they cross the sidewalk, while at the same time ample space is provided for vehicles to easily make the turn from the street to the driveway.

Thank you for your consideration of this request. Please let me know if you have questions or need additional information.

Sincerely,



Brian Teague
Community By Design

100 West Center Street Suite 300
Fayetteville, AR 72701

479.790.6775
Planning Commission

August 14, 2023

May 22, 2023

Via Email: gharrison@fayetteville-ar.gov

Ms. Gretchen Harrison, Planner
City of Fayetteville
125 West Mountain Street
Fayetteville, Arkansas 72701

RE: **LSD-2022-0042 – Driveways beyond property line shall extend 18' into the property 172.11(G)(2)**

Ms. Harrison,

Please allow this letter to serve as a request to allow the driveways on the north side of proposed Street E, as proposed on the project's current site plans dated May 22, 2023. This variance request applies to proposed driveways on the north side of proposed Street E where 13' and 15' is proposed as driveway lengths between the back of the proposed sidewalk and the garage door face when 18' is required.

The sidewalk proposed on the north side of Street E has been offered as a 2nd sidewalk on the street when historically in a hillside condition only 1 sidewalk per street is required. This is in addition to 1 sidewalk required with the current alternative residential link street section and previous hillside versions. If the additional 2nd sidewalk was not included on the north side of the street then this variance would not be required.

18' is seemingly required to accommodate an illegally or not planned for parked car, in an effort to prevent it from parking illegally on the sidewalk in front of the garage door. As proposed the garage parking is through single car garage doors. The cars have to pass under the front porch where column bays are only 10' wide. This is in an effort to keep the streetscape human scaled while still provided garage access. It is unlikely that a car will park half under the porch and half out and also mostly across the sidewalk. We struggle with the concept of planning for this unlikely scenario.

The houses proposed for the north side of Street E are designed for the ground floor to act as tuck under parking condition so the north wall acts as a retaining wall with primary living quarters to be located on the 2nd and 3rd floors. Moving the houses back 5' to accommodate the 18' driveway length requirement will significantly and unnecessarily impact hillside grading conditions and significant tree preservation conditions by requiring more impact to the hillside.

Furthermore, requiring the vertical streetscape or the space between the buildings to be wider seems to be contrary to the goals of City Plan and providing narrow street cross sections. A narrower street cross section will provide traffic calming and streets that are safer for pedestrians.

Thank you for your consideration of this request. Please let me know if you have questions or need additional information.

Sincerely,

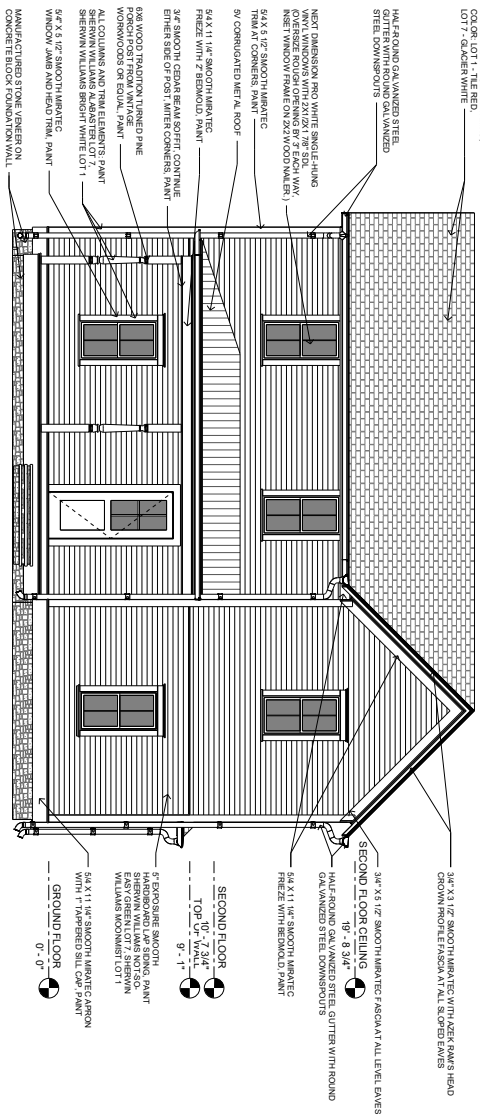


Brian Teague
Community By Design

100 West Center Street Suite 300
Fayetteville, AR 72701

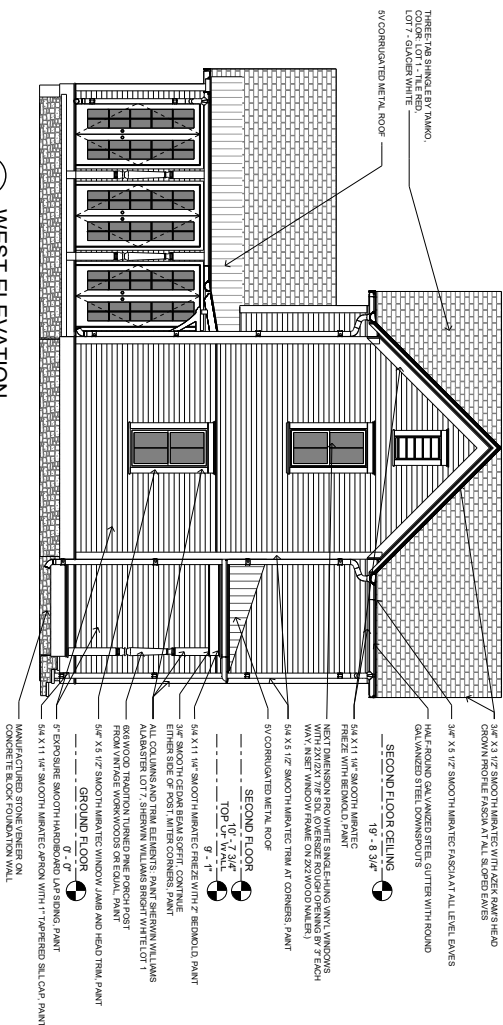
479.790.6775
Planning Commission

August 14, 2023



1 SOUTH ELEVATION

1/4" = 1'-0"



2 WEST ELEVATION

1/4" = 1'-0"

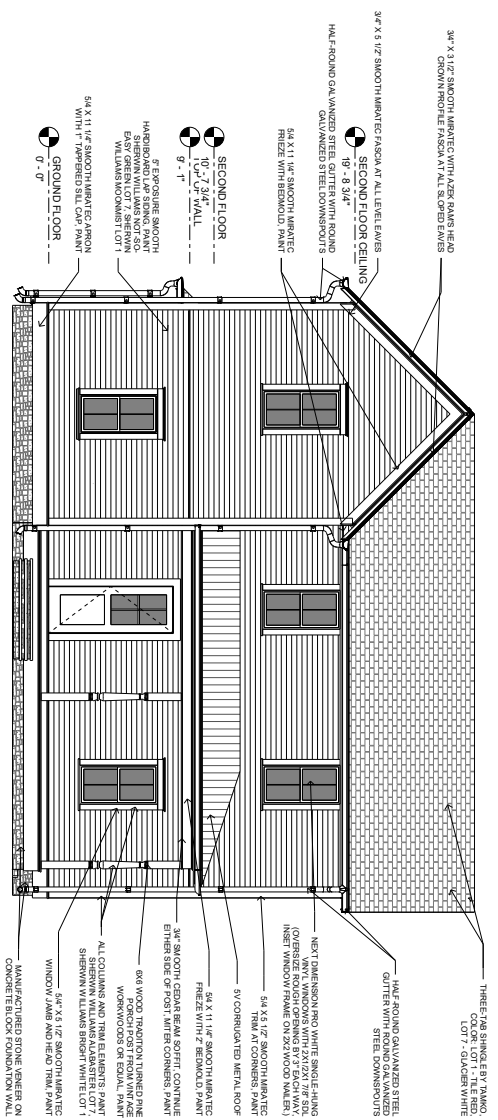
BENT HOUSE
ELEVATION 5L

ISSUED FOR REVIEW

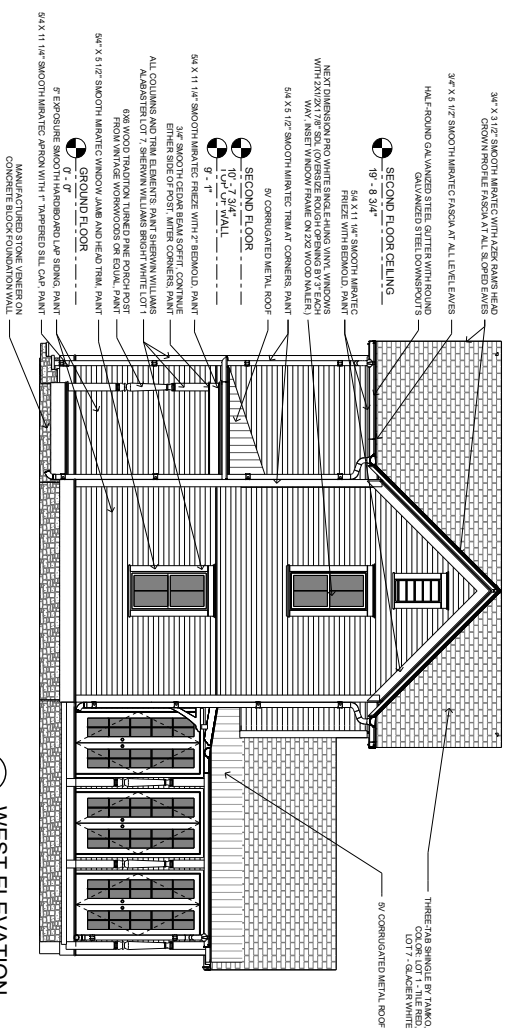
DESIGNED BY: K
DRAWN BY: K
DATE: 06/29/22

ELEVATIONS

SHEET A2.1



1 SOUTH ELEVATION
1/4" = 1'-0"



2 WEST ELEVATION
1/4" = 1'-0"

BENT HOUSE
ELEVATION 5R

ISSUED FOR REVIEW

DESIGNED BY
DRAWN BY: K
DATE: 06/29/22

ELEVATIONS

SHEET A2.1



REVISION 0

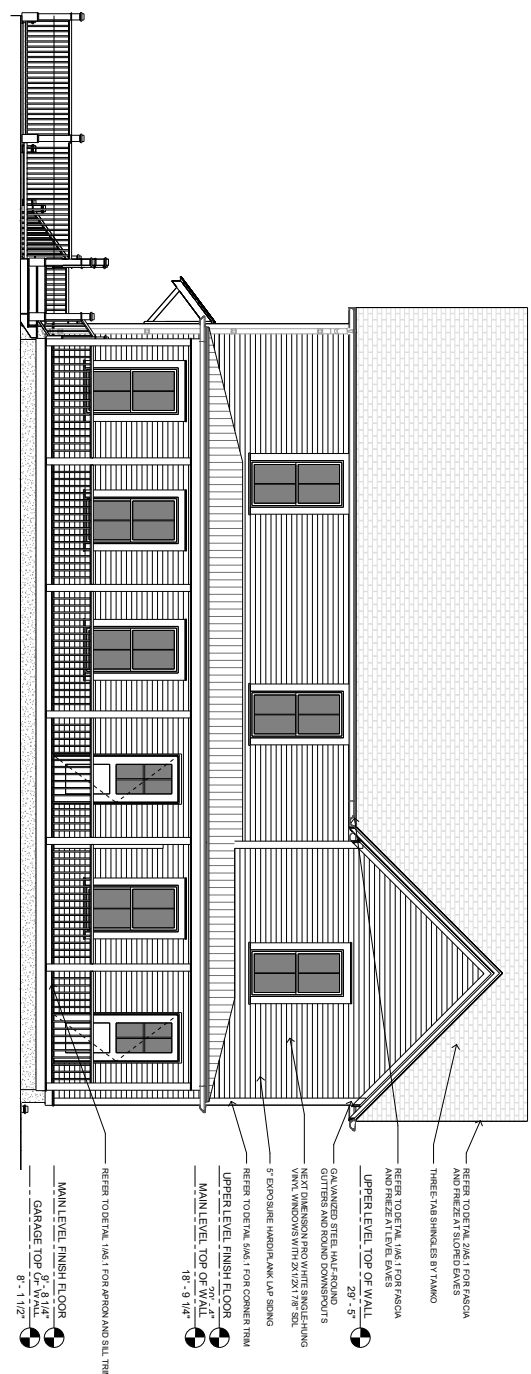
BENT HOUSE
ELEVATION 8L

ISSUED FOR
CONSTRUCTION

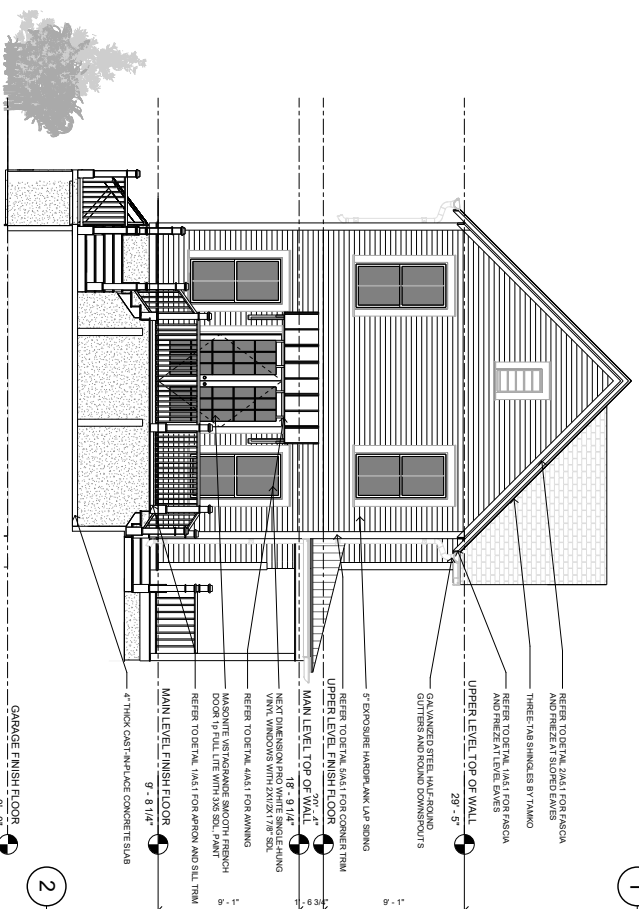
ENGINEER: BT
DRAWN BY: TK
DATE: 06/29/23

ELEVATIONS

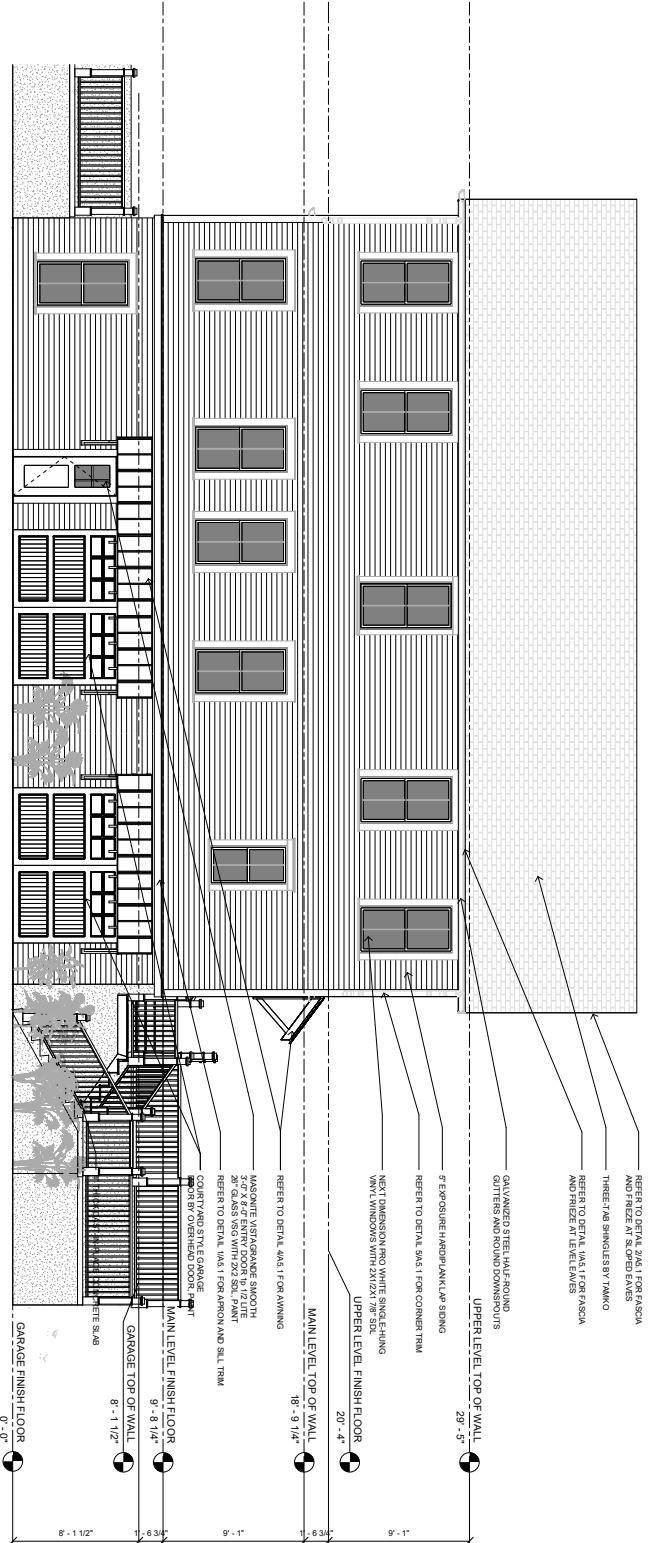
SHEET A2.2



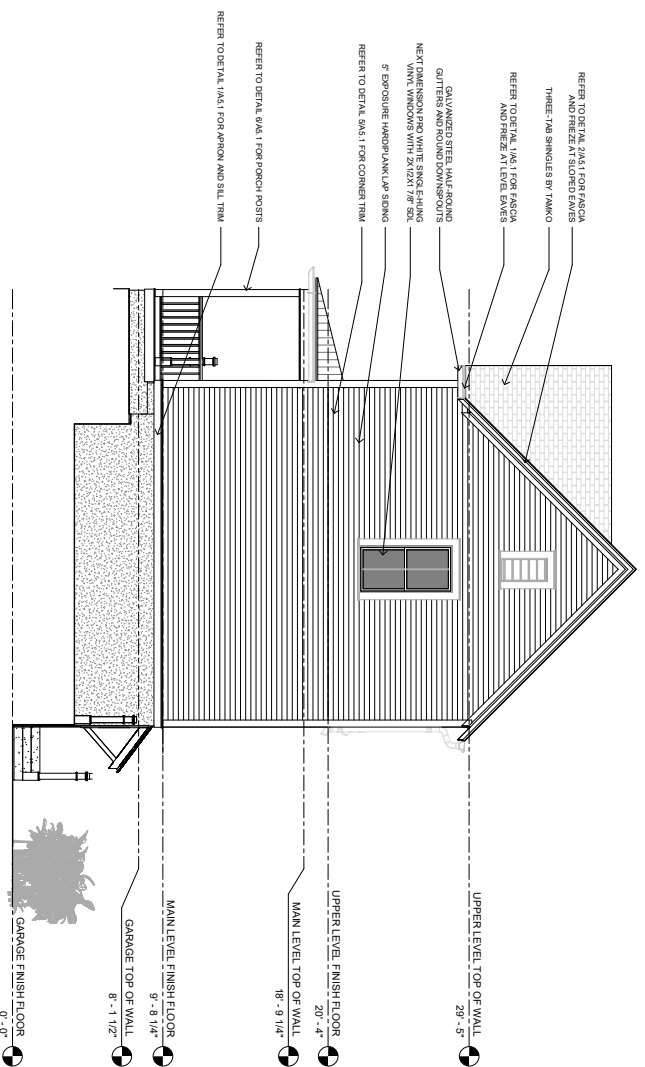
1 FRONT ELEVATION
1/4" = 1'-0"



2 LEFT ELEVATION
1/4" = 1'-0"



1 REAR ELEVATION
1/4" = 1'-0"



2 RIGHT ELEVATION
1/4" = 1'-0"

BENT HOUSE
ELEVATION 8L

ISSUED FOR
CONSTRUCTION

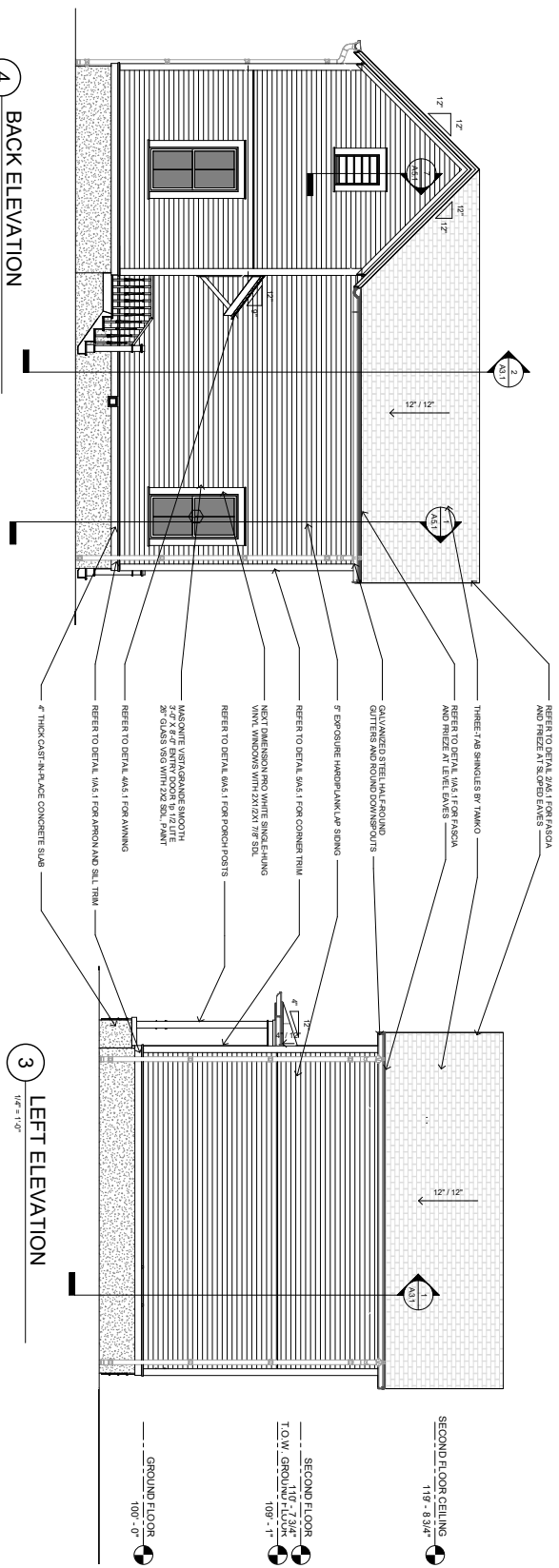
DESIGNER: BT
DRAWN BY: TK
DATE: 06/29/23

ELEVATIONS

SHEET A2.2A

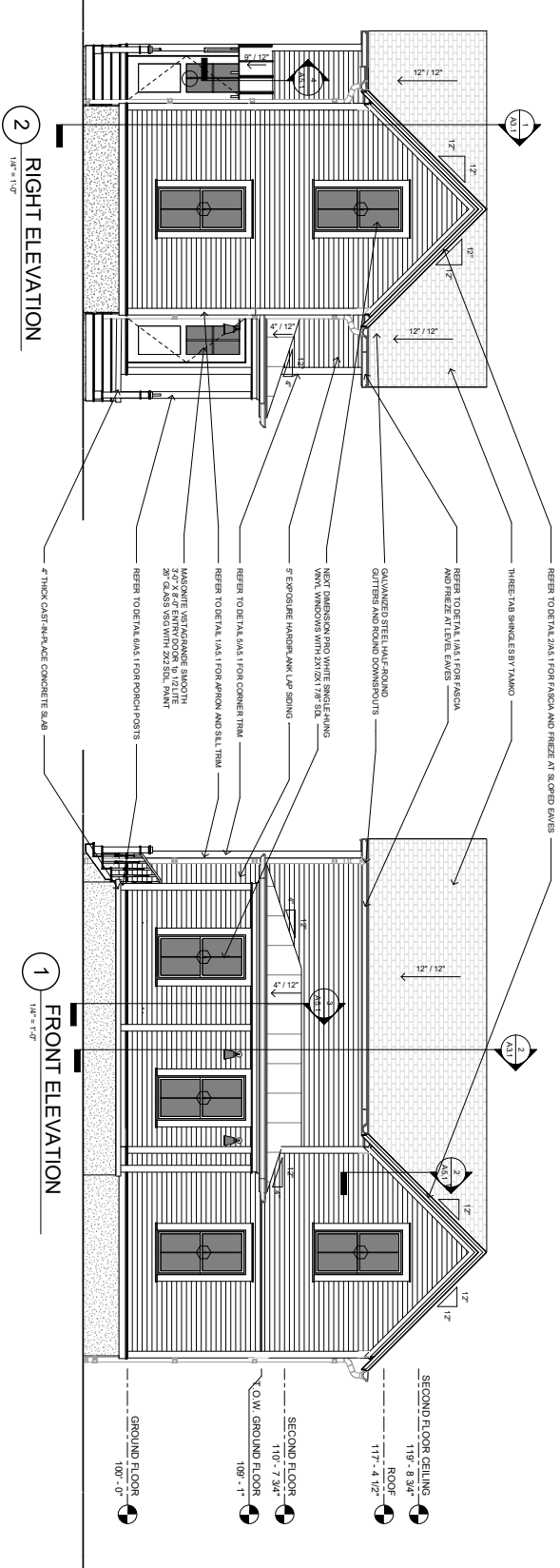


REVISION 0



4 BACK ELEVATION

3 LEFT ELEVATION



2 RIGHT ELEVATION

1 FRONT ELEVATION

BENT HOUSE
ELEVATION 1L

ISSUED FOR
CONSTRUCTION

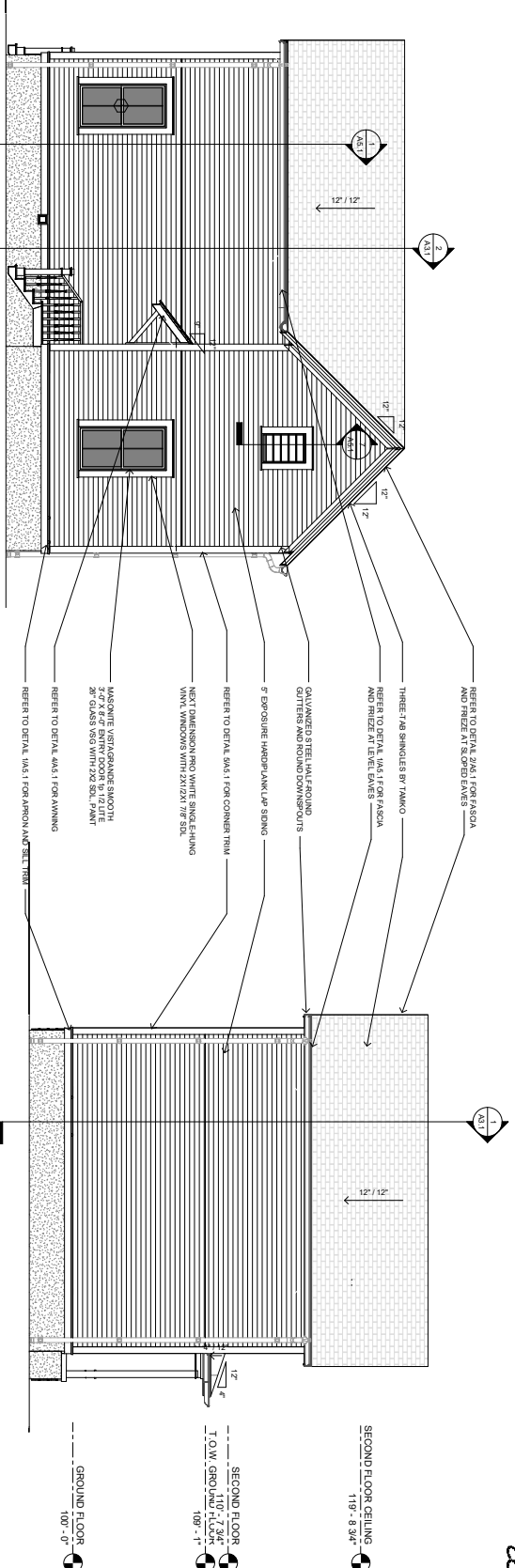
ENGINEER: BT
DRAWN BY: TK
DATE: 08/08/2022

ELEVATIONS

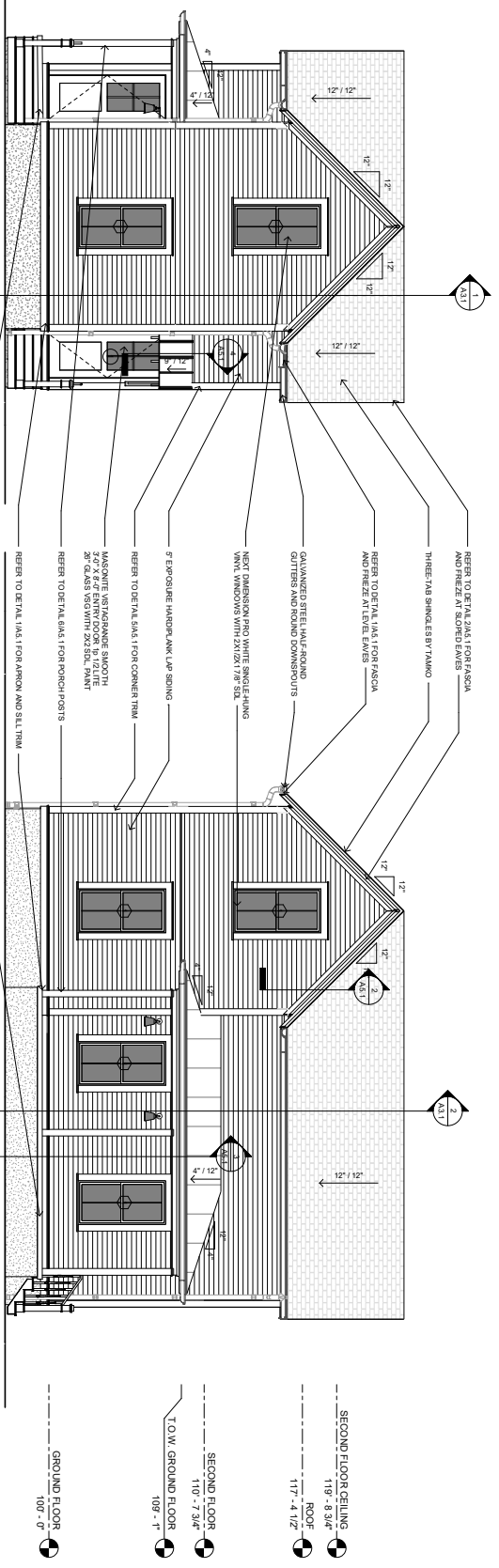
SHEET A2.1



REVISION 0



3 LEFT ELEVATION
1/4" = 1'-0"



1 FRONT ELEVATION
1/4" = 1'-0"

2 RIGHT ELEVATION
1/4" = 1'-0"

4 BACK ELEVATION
1/4" = 1'-0"

BENT HOUSE
ELEVATION 1R

ISSUED FOR
CONSTRUCTION

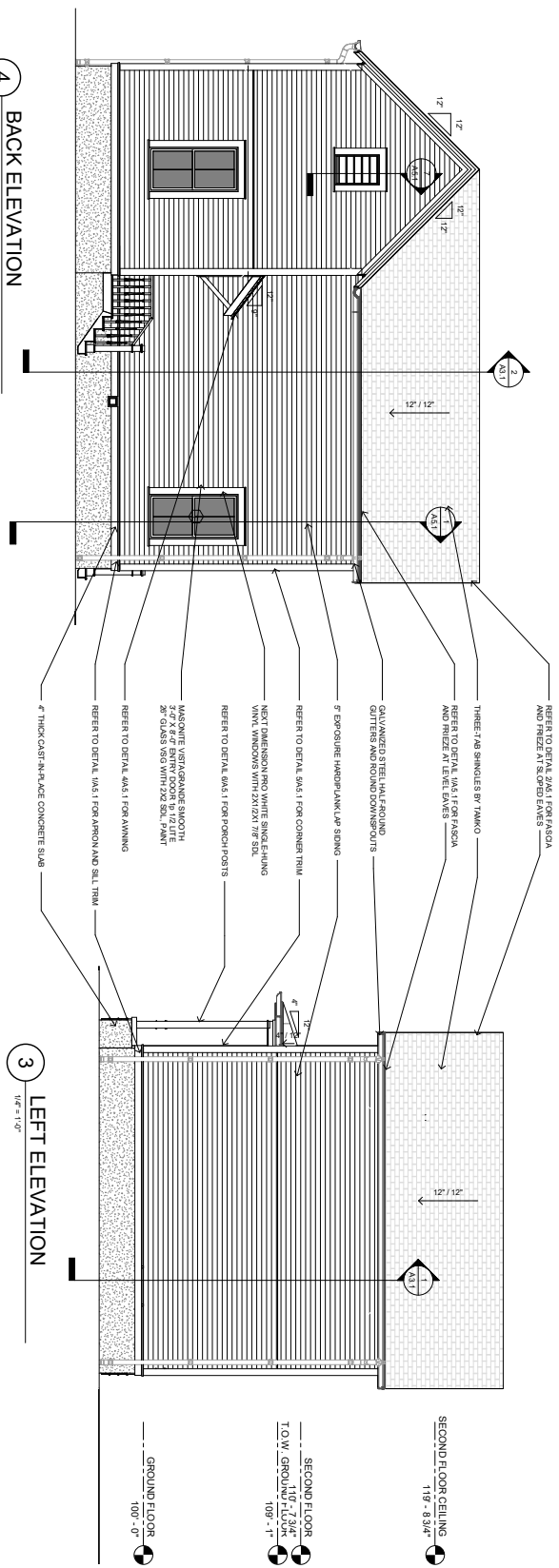
ENGINEER: BT
DRAWN BY: TK
DATE: 08/08/2022

ELEVATIONS

SHEET A2.1

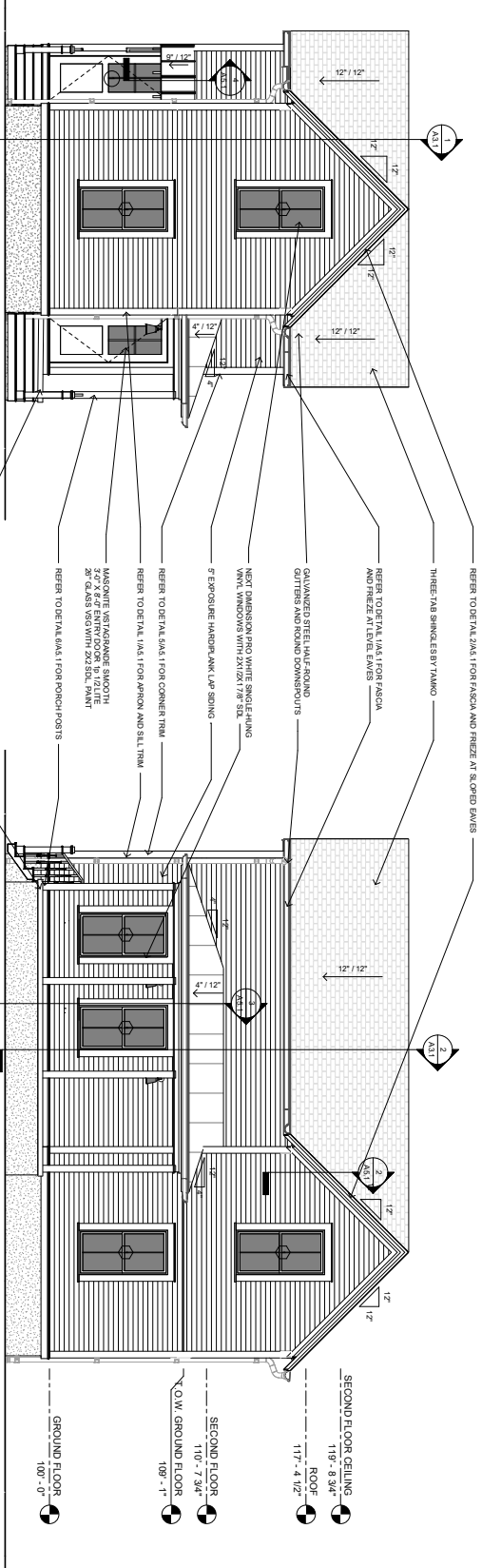


REVISION 0



4 BACK ELEVATION

3 LEFT ELEVATION



2 RIGHT ELEVATION

1 FRONT ELEVATION

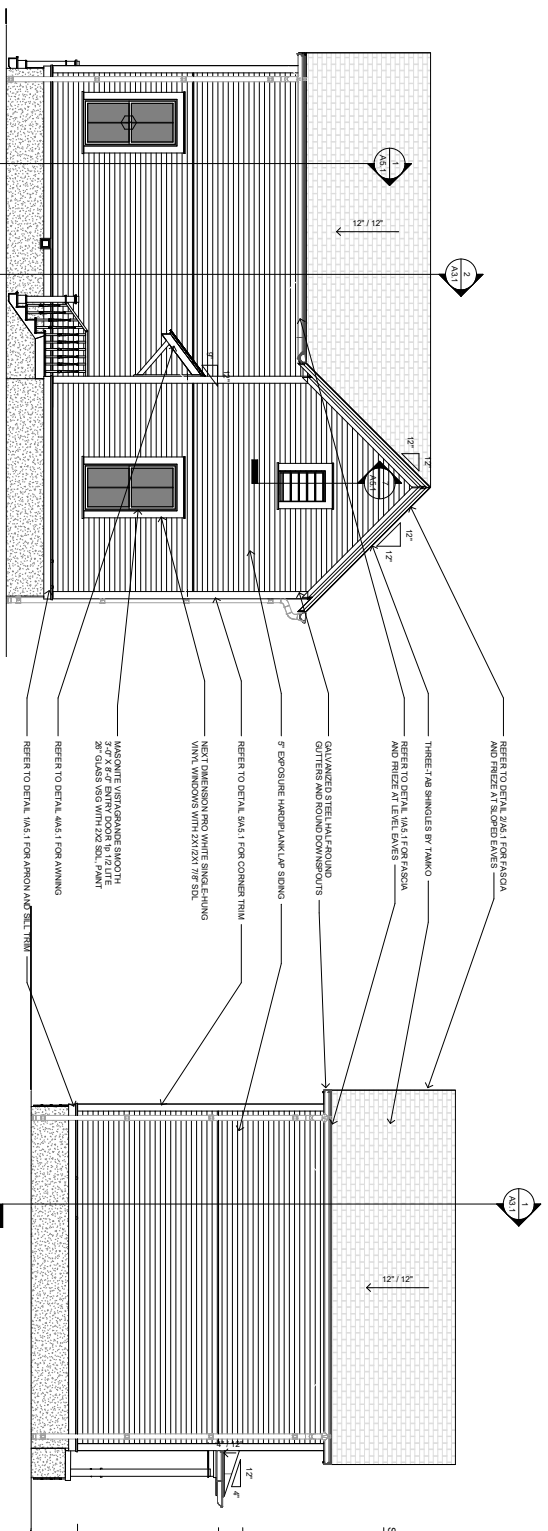
BENT HOUSE
ELEVATION 2L

ISSUED FOR
CONSTRUCTION

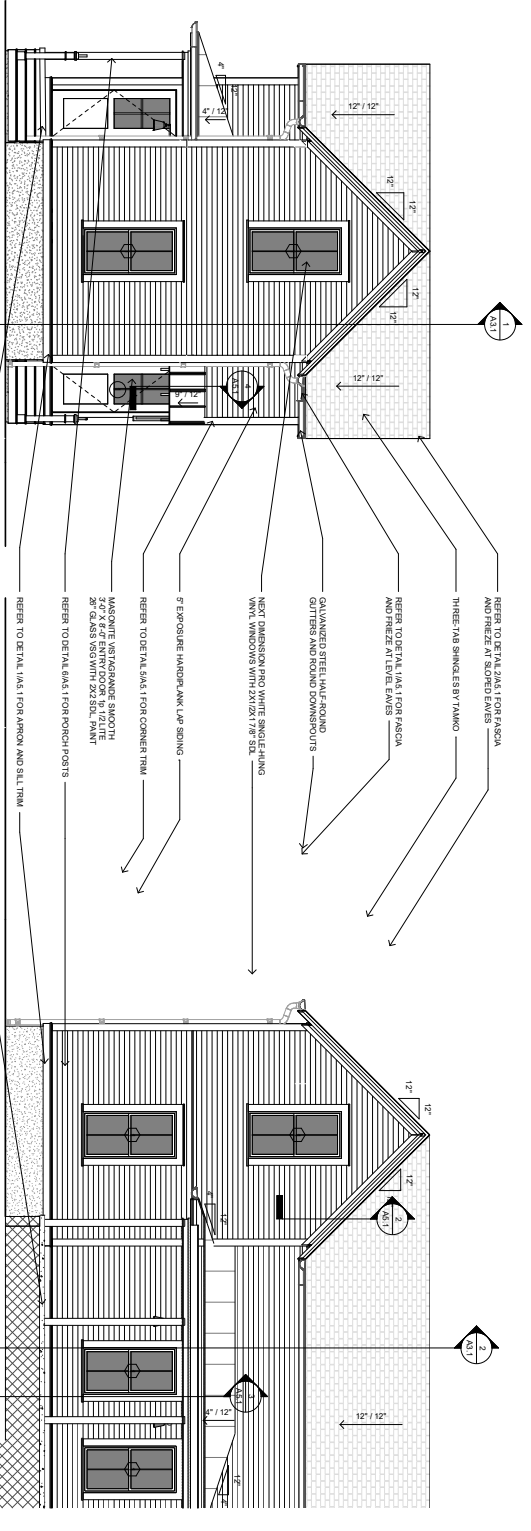
ENGINEER: BT
DRAWN BY: TK
DATE: 08/08/2022

ELEVATIONS

SHEET A2.1



3 LEFT ELEVATION
1/4" = 1'-0"



2 RIGHT ELEVATION
1/4" = 1'-0"

1 FRONT ELEVATION
1/4" = 1'-0"

BENT HOUSE
ELEVATION 2R

ISSUED FOR
CONSTRUCTION

SECOND FLOOR CEILING	119' - 8.94"
ROOF	117' - 4.12"
SECOND FLOOR	110' - 7.34"
GROUND FLOOR	109' - 1"

GROUND FLOOR	100' - 0"
--------------	-----------

ELEVATIONS

SHEET A2.1



REVISION 0

4 BACK ELEVATION

1/4" = 1'-0"

3 LEFT ELEVATION

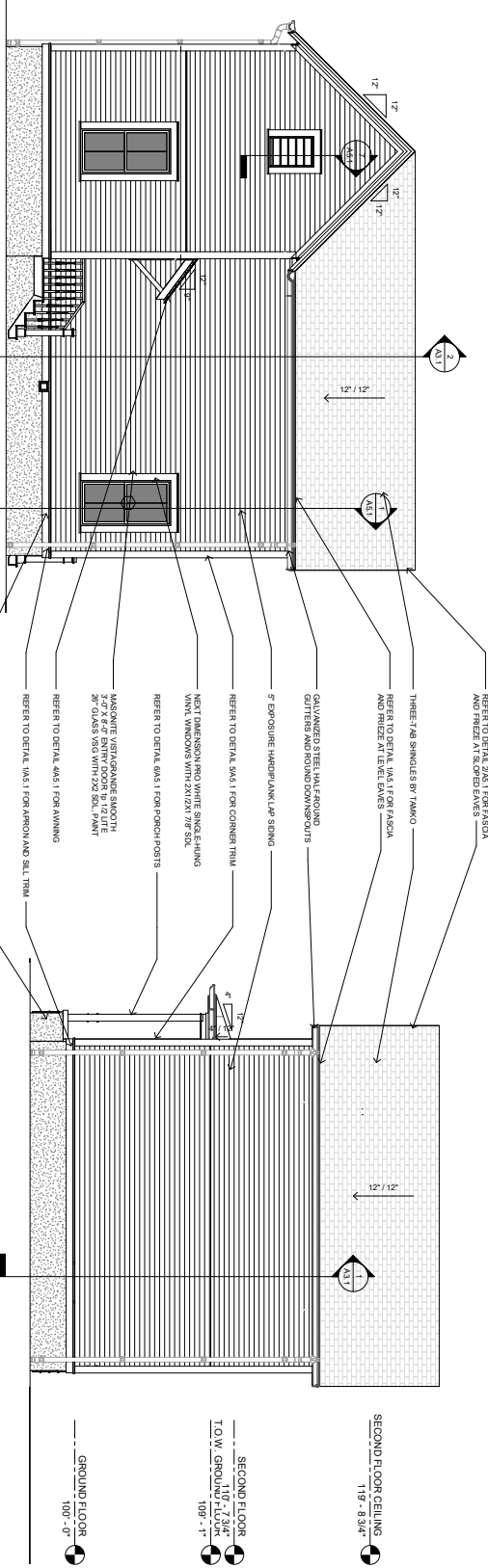
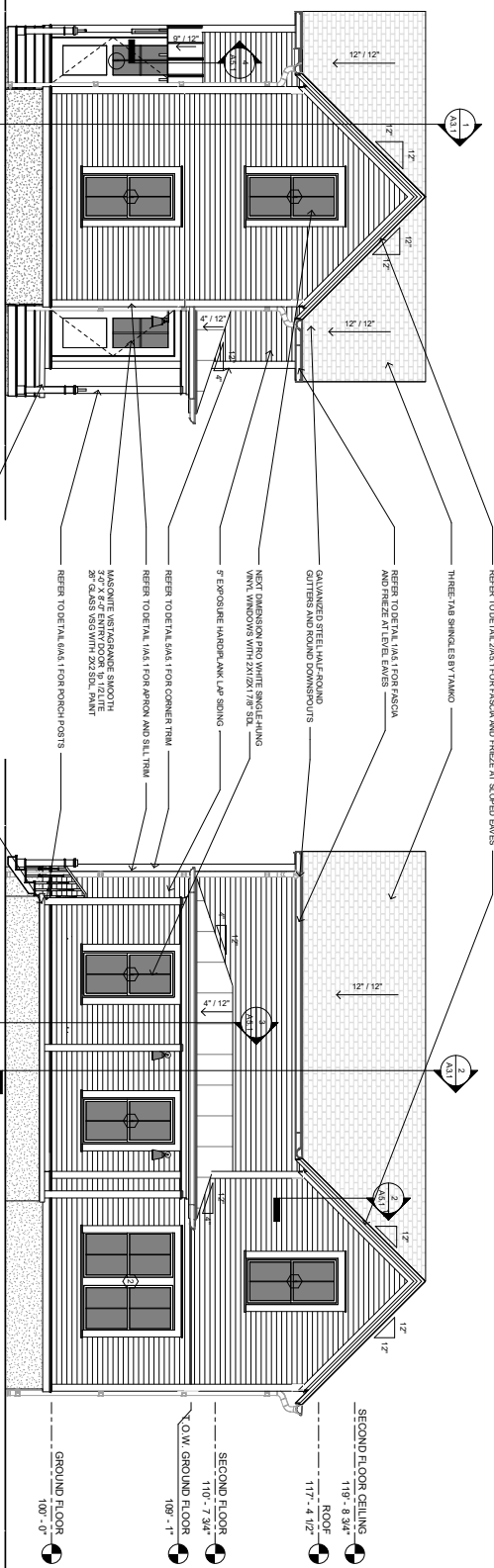
1/4" = 1'-0"

2 RIGHT ELEVATION

1/4" = 1'-0"

1 FRONT ELEVATION

1/4" = 1'-0"



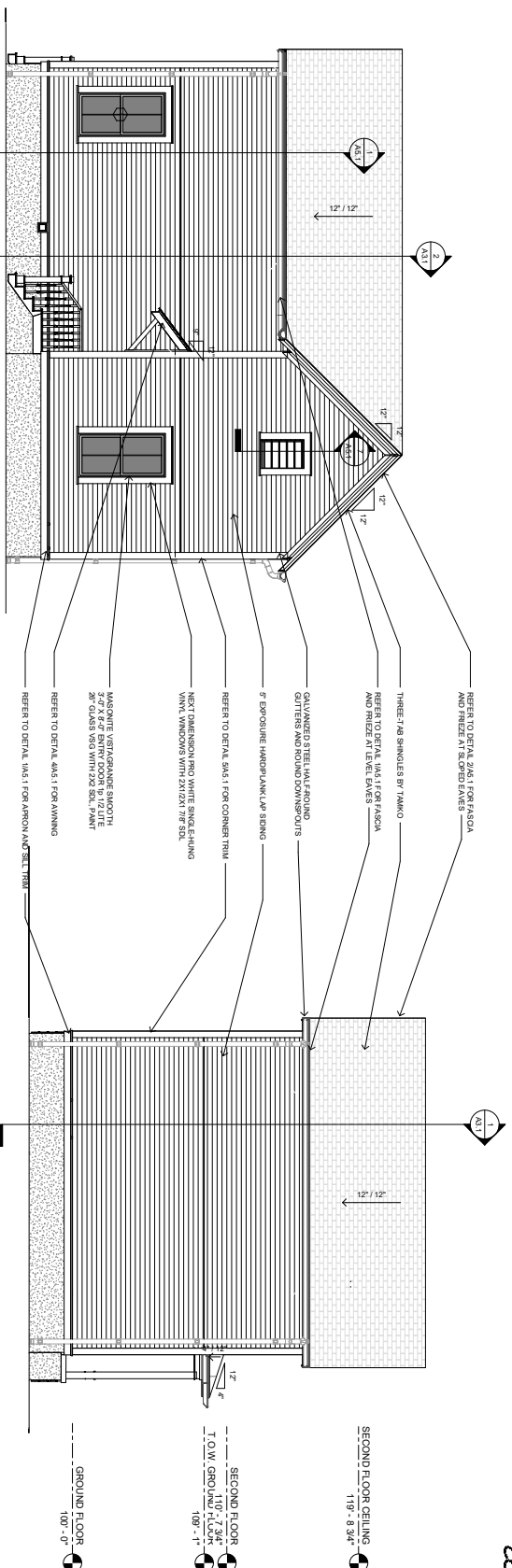
BENT HOUSE
ELEVATION 3L

ISSUED FOR
CONSTRUCTION

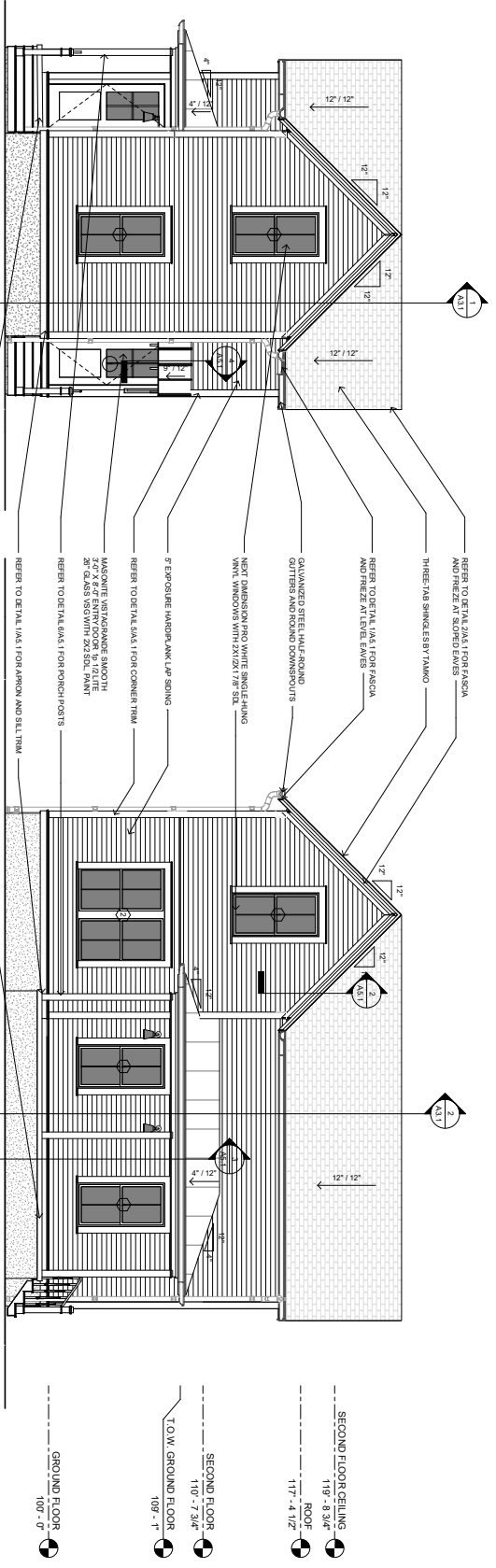
ENGINEER: BT
DRAWN BY: TK
DATE: 08/08/2022

SHEET A2.1

ELEVATIONS



3 LEFT ELEVATION
1/4" = 1'-0"



1 FRONT ELEVATION
1/4" = 1'-0"

2 RIGHT ELEVATION
1/4" = 1'-0"

4 BACK ELEVATION
1/4" = 1'-0"

BENT HOUSE
ELEVATION 3R

ISSUED FOR
CONSTRUCTION

ENGINEER: BT
DRAWN BY: TK
DATE: 08/06/2022

SHEET A2.1

ELEVATIONS



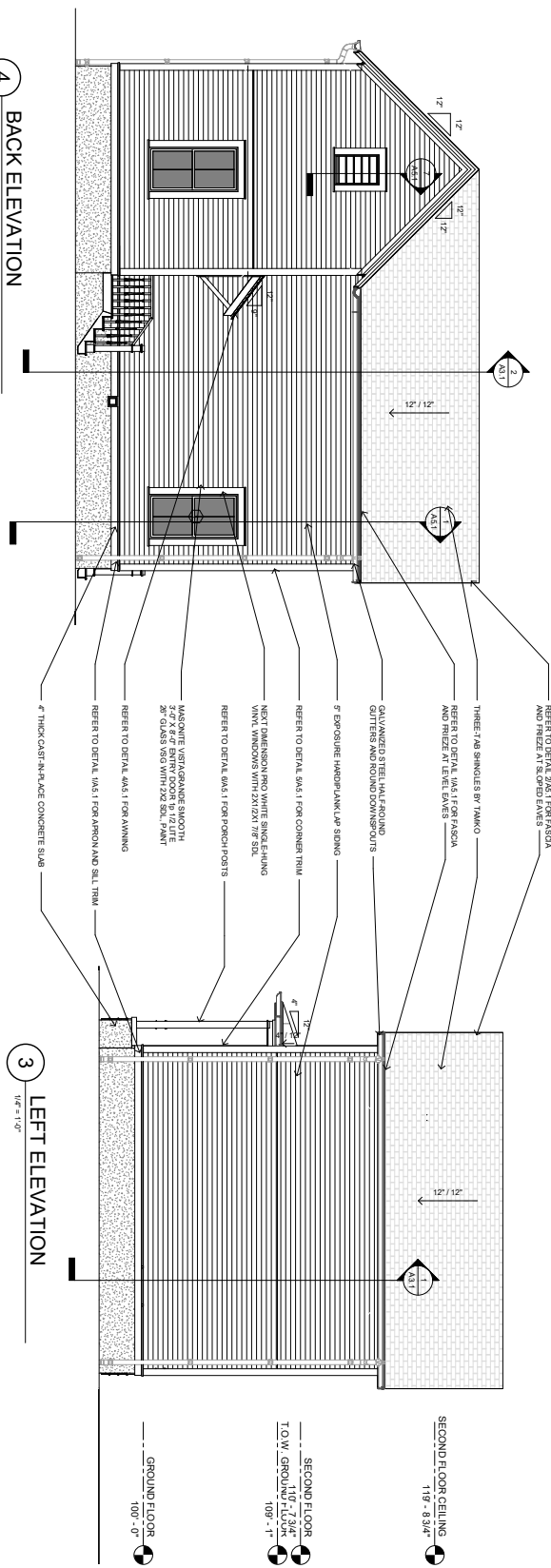
REVISION 0

BENT HOUSE
ELEVATION 4L

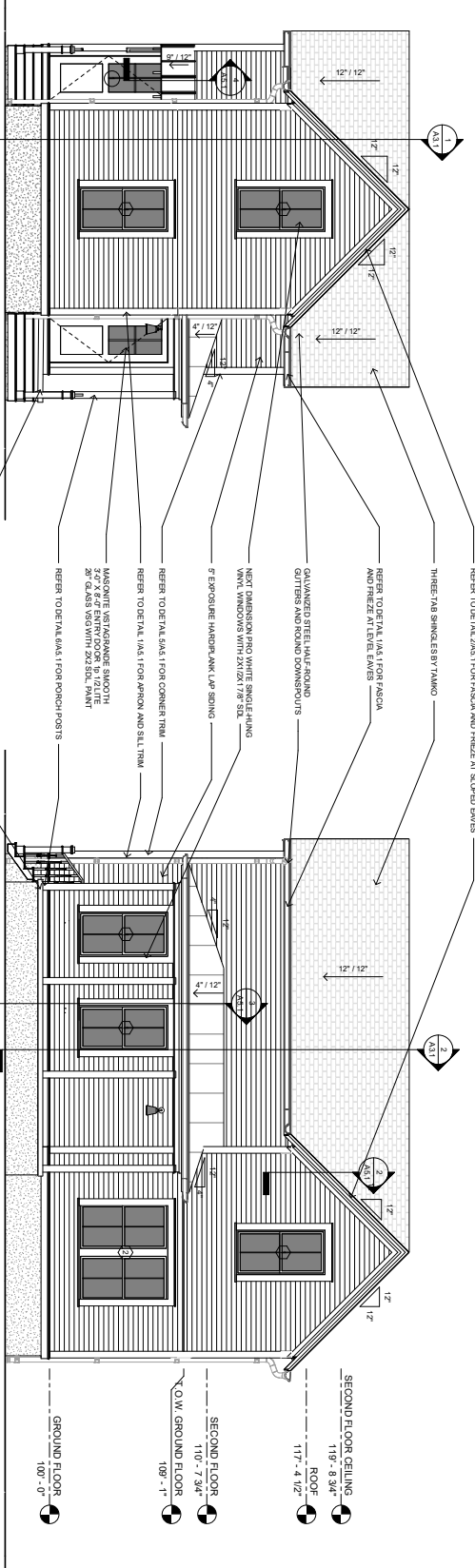
ISSUED FOR
CONSTRUCTION

ENGINEER: BT
DRAWN BY: TK
DATE: 08/08/2022

SHEET A2.1

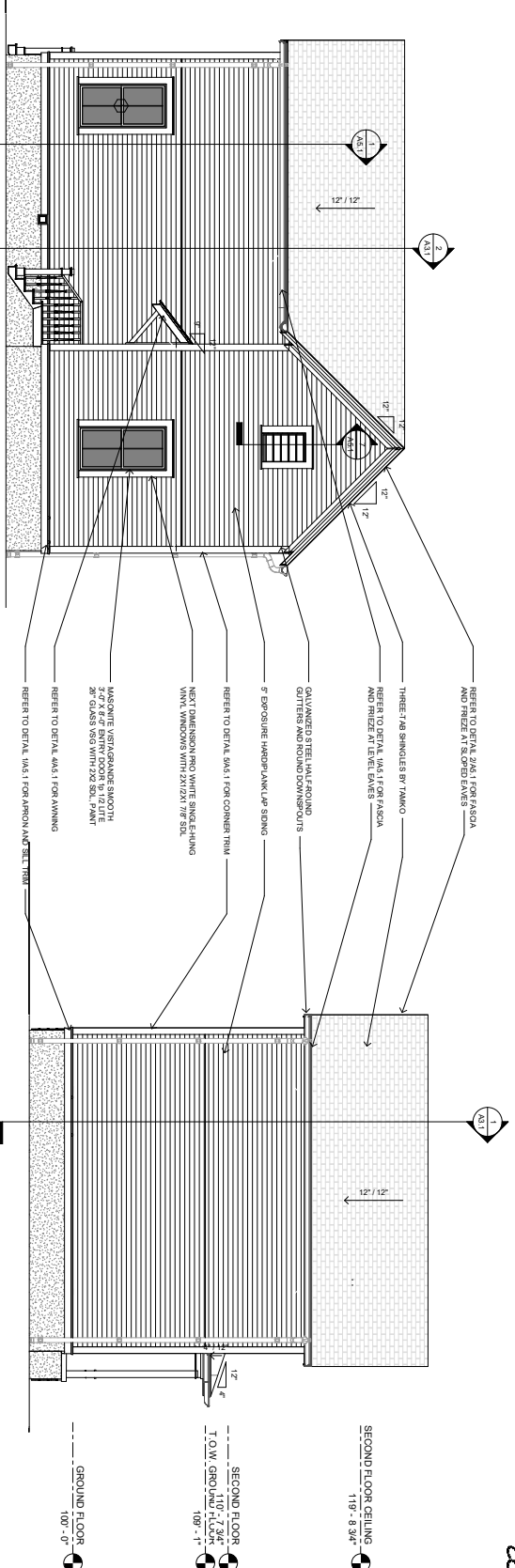


4 BACK ELEVATION



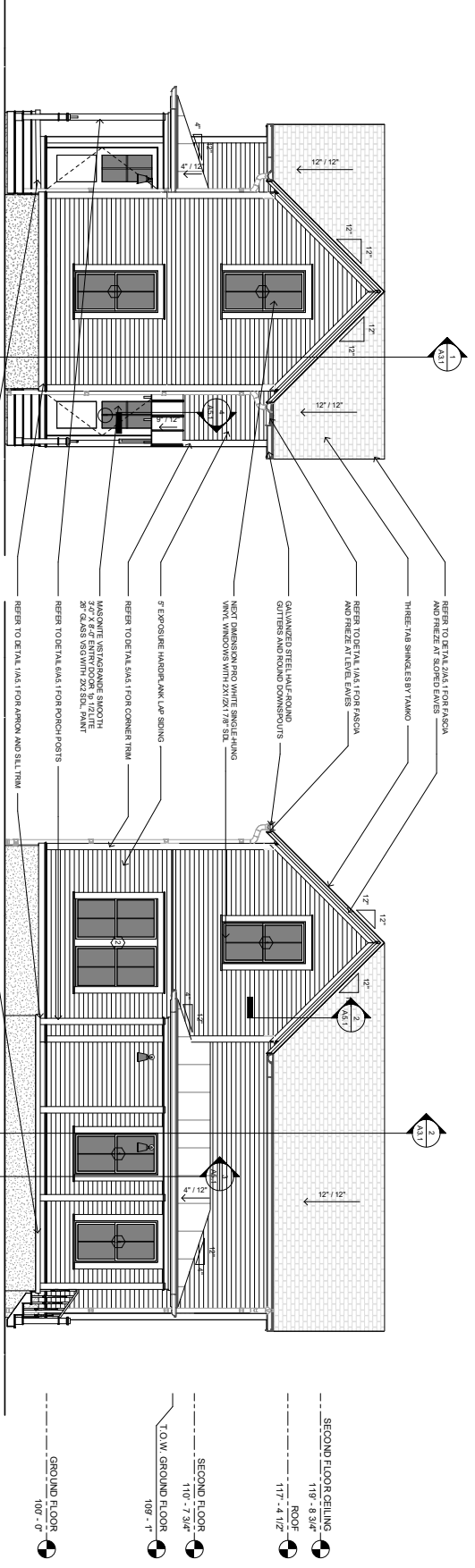
2 RIGHT ELEVATION

1 FRONT ELEVATION



3 LEFT ELEVATION

4 BACK ELEVATION



1 FRONT ELEVATION

2 RIGHT ELEVATION

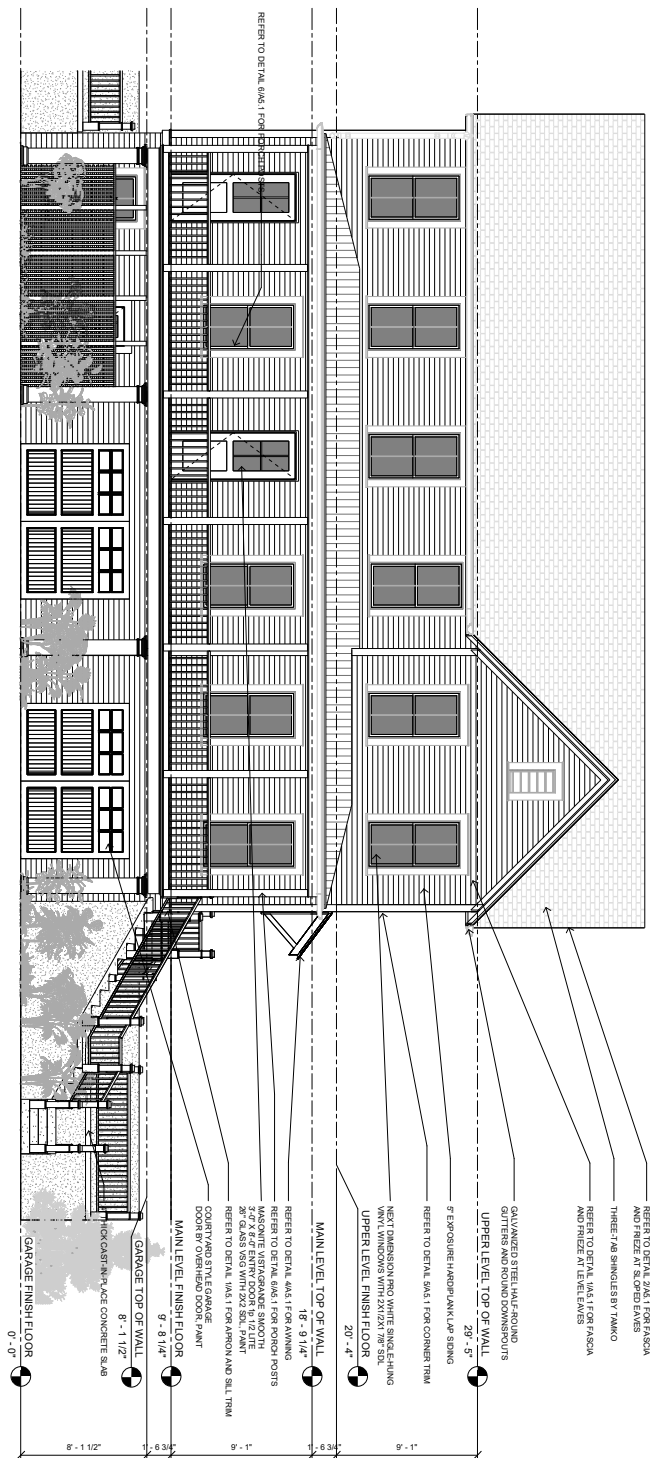
BENT HOUSE
ELEVATION 4R

ISSUED FOR
CONSTRUCTION

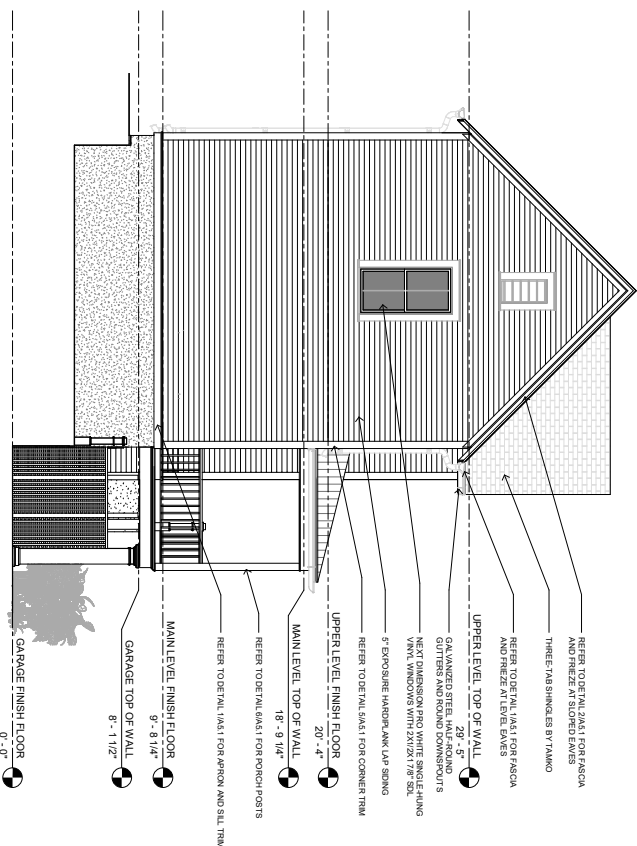
ENGINEER: BT
DRAWN BY: TK
DATE: 08/06/2022

ELEVATIONS

SHEET A2.1



1 FRONT ELEVATION



2 RIGHT ELEVATION

BENT HOUSE
ELEVATION 6R

ISSUED FOR
CONSTRUCTION

ENGINEER: BT
 DRAWN BY: TK
 DATE: 07/20/2022

ELEVATIONS

SHEET A2.1



MAIN LEVEL FINISH FLOOR	9' - 8 1/4"
GARAGE TOP OF WALL	8' - 1 1/2"

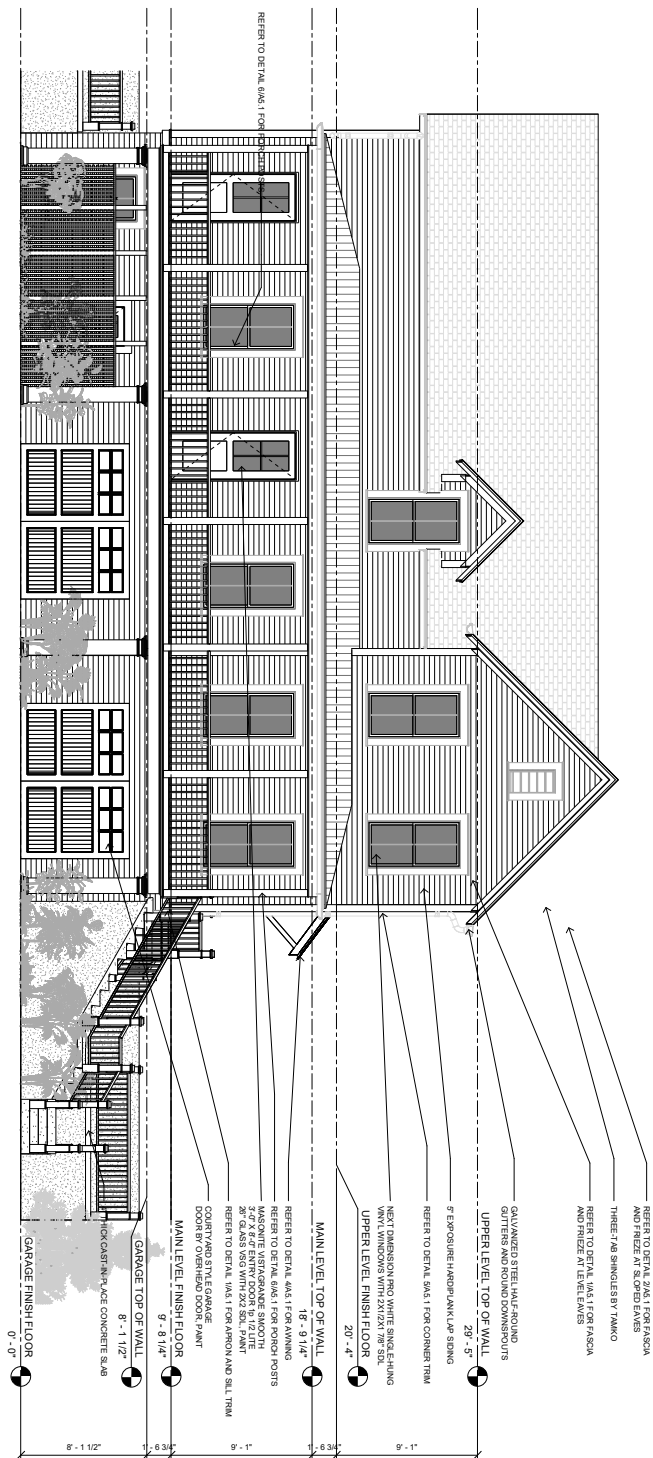
REVISION 0



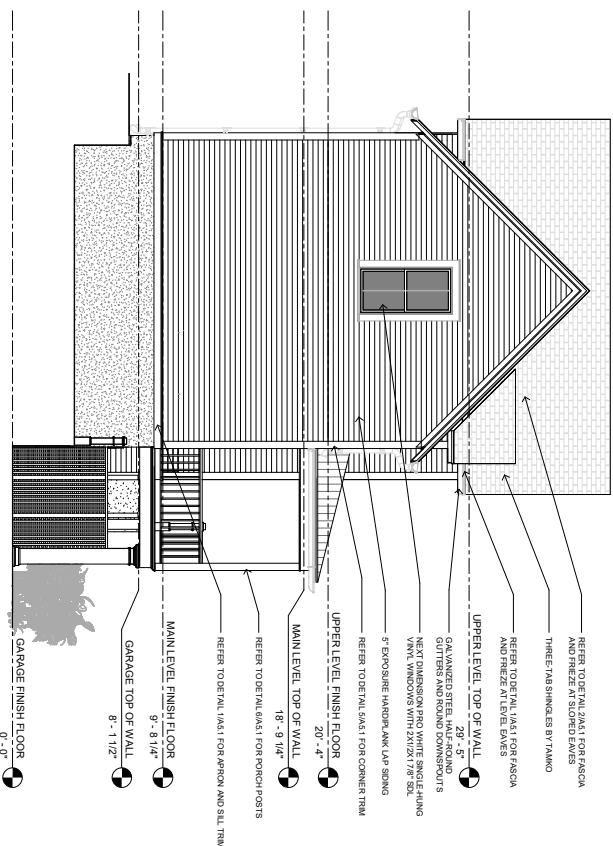
LEFT ELEVATION

SHEET A22

ENGINEER: BT
DRAWN BY: TK
DATE: 01/20/2023



1 FRONT ELEVATION
1/8" = 1'-0"

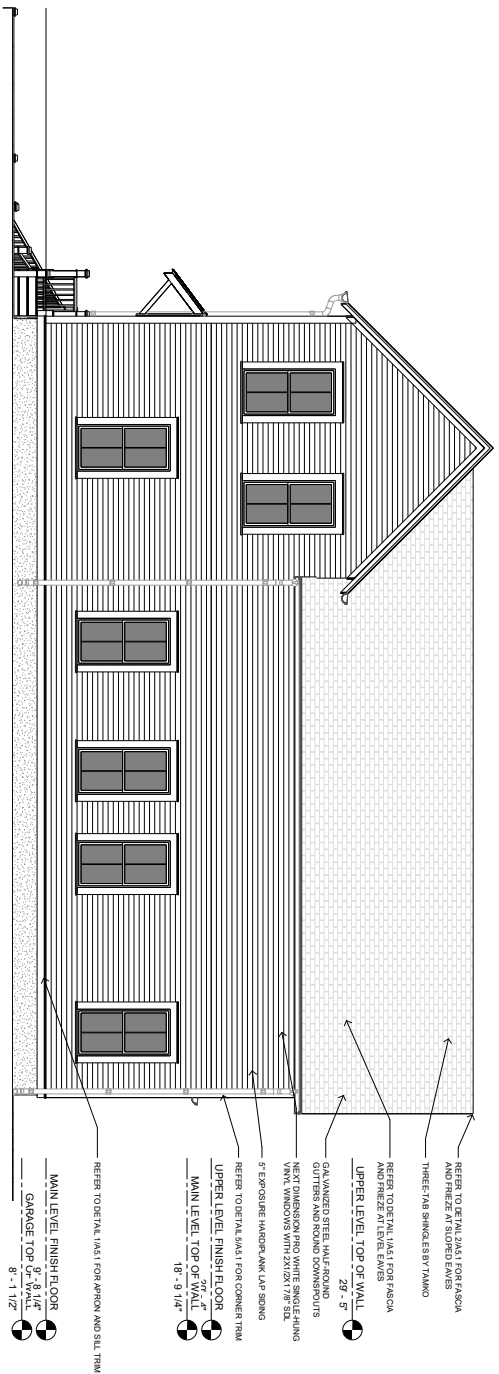


2 RIGHT ELEVATION
1/8" = 1'-0"

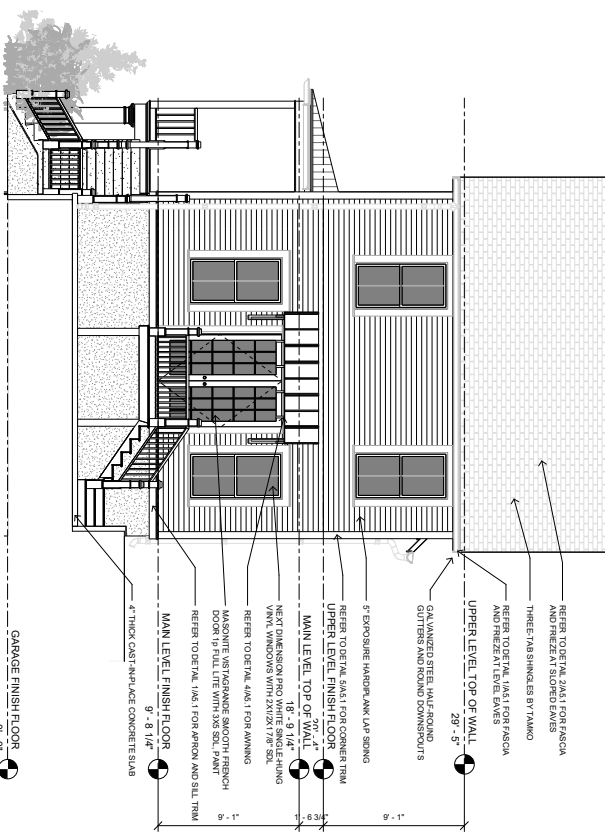
BENT HOUSE
ELEVATION 7R

ISSUED FOR
CONSTRUCTION
DESIGNED BY
DRAWN BY JK
DATE 07/20/2022

ELEVATIONS
SHEET A2.1



1 BACK ELEVATION



2 LEFT ELEVATION

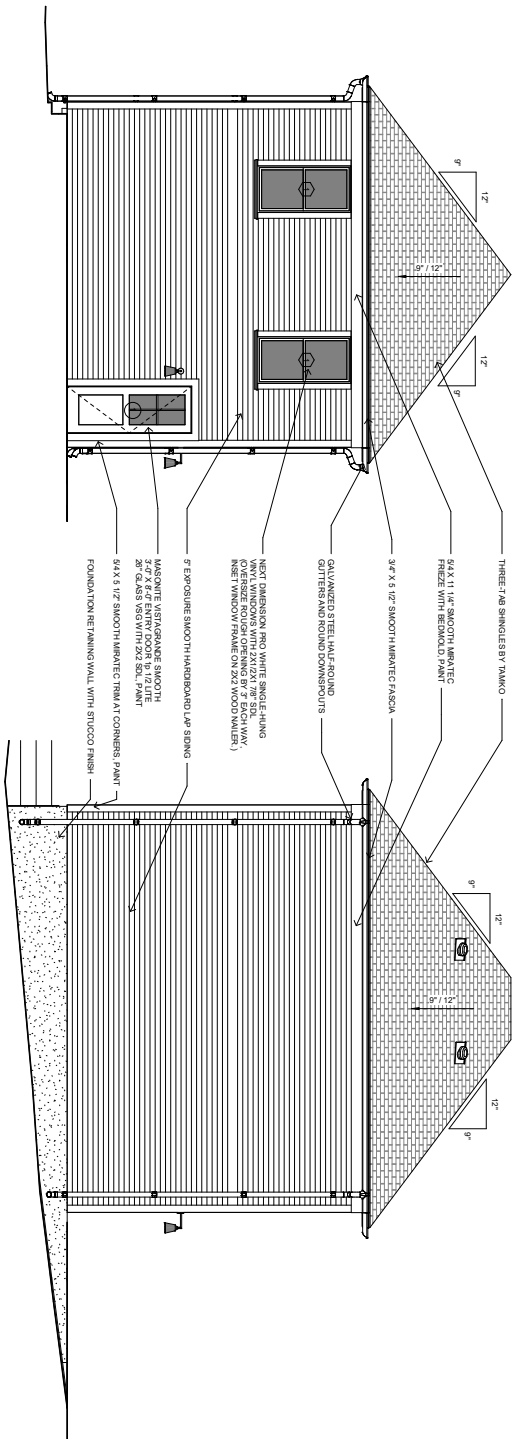
BENT HOUSE
ELEVATION 7R

ISSUED FOR
CONSTRUCTION

ENGINEER: BT
DRAWN BY: TK
DATE: 07/20/2022

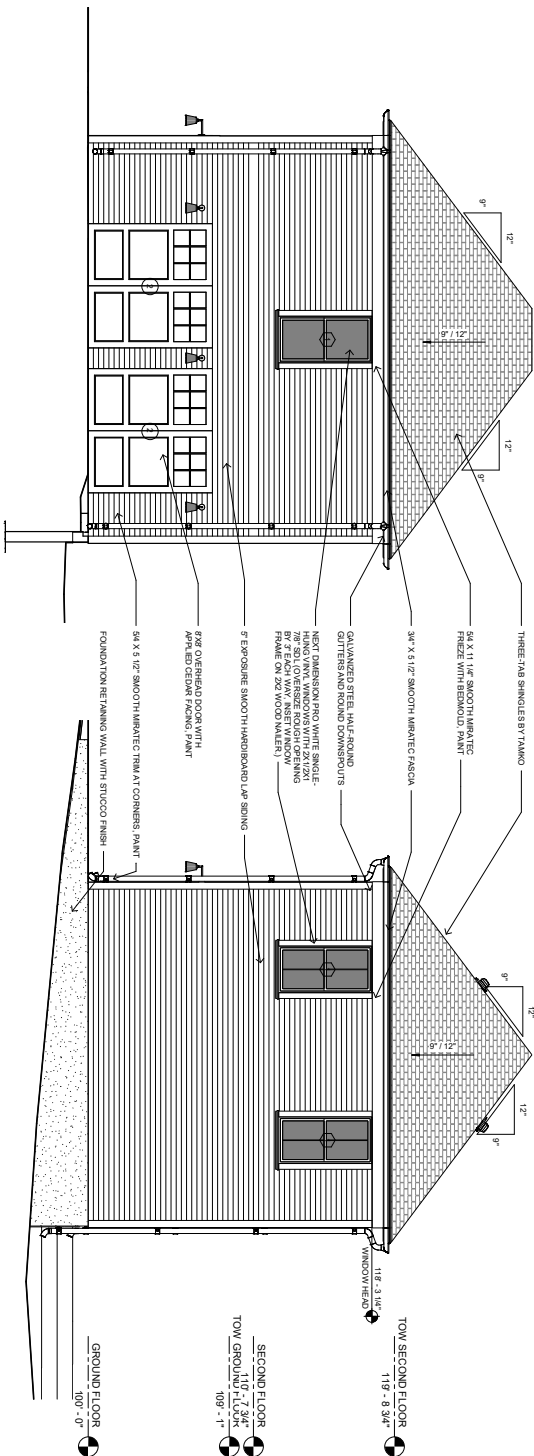
ELEVATIONS

SHEET A2.2



3 EAST ELEVATION
1/4" = 1'-0"

4 SOUTH ELEVATION
1/4" = 1'-0"



2 NORTH ELEVATION
1/4" = 1'-0"

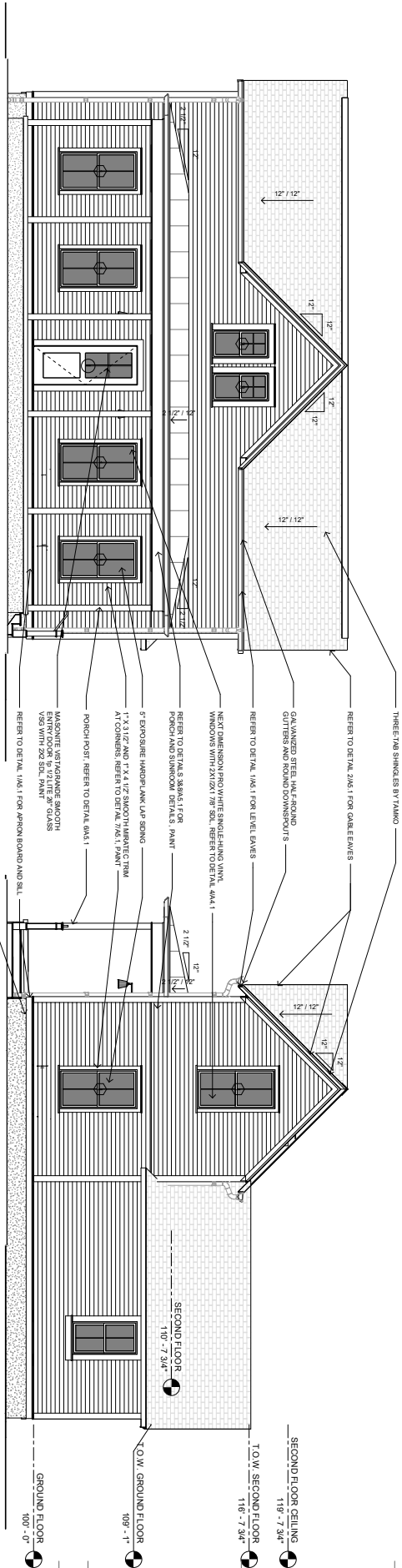
1 WEST ELEVATION
1/4" = 1'-0"





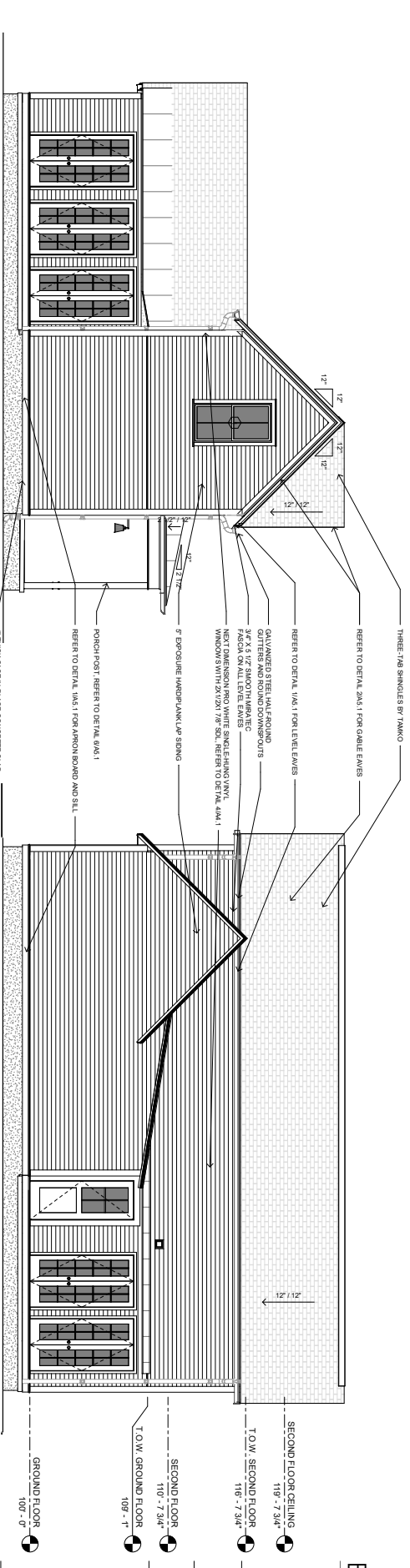
REVISION 0

CENTRAL HALL ELEVATION 5R



1 FRONT ELEVATION

4 LEFT ELEVATION



2 RIGHT ELEVATION

3 BACK ELEVATION

SHEET A2.1

ELEVATIONS

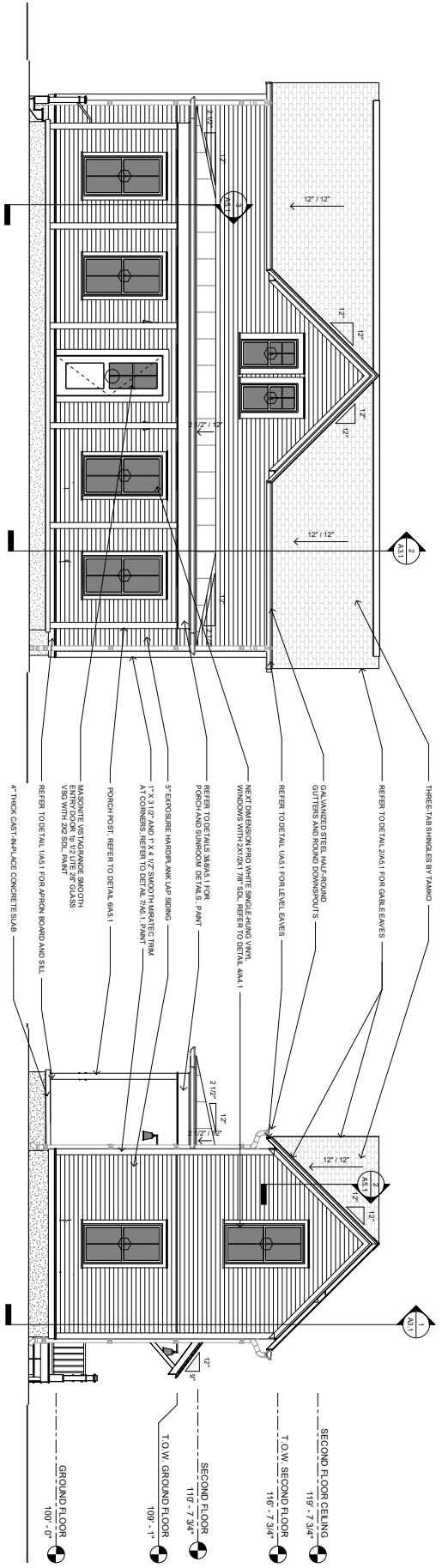
ISSUED FOR CONSTRUCTION

ENGINEER: BT
DRAWN BY: TK
DATE: 06/29/22

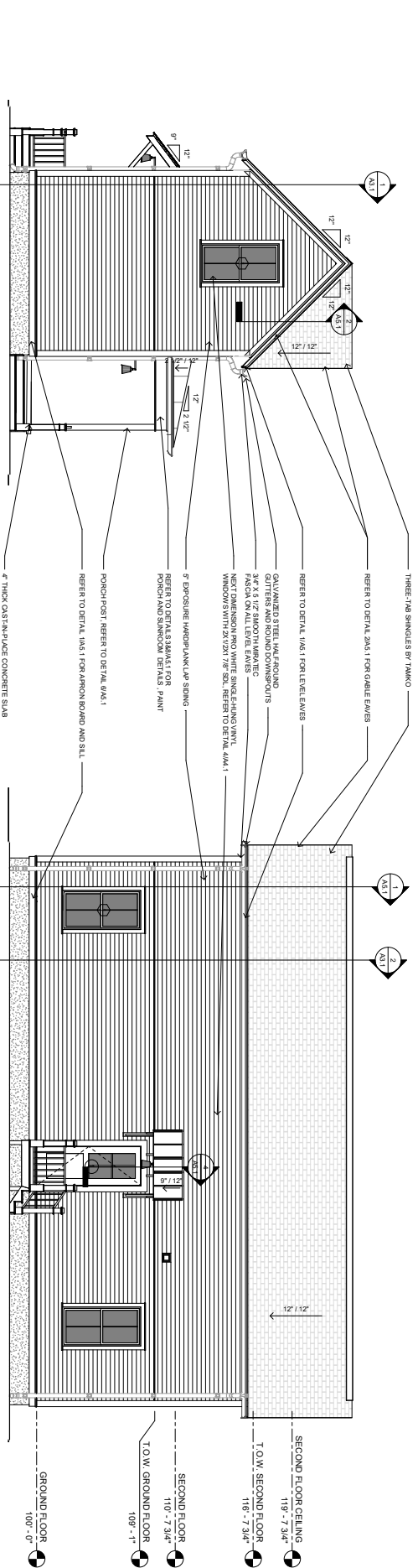


REVISION 0

CENTRAL
HALL
ELEVATION 1L



1 FRONT ELEVATION
1/4" = 1'-0"



2 RIGHT ELEVATION
1/4" = 1'-0"

3 BACK ELEVATION
1/4" = 1'-0"

SHEET A2.1

ELEVATIONS

ISSUED FOR
CONSTRUCTION

ENGINEER: BT
DRAWN BY: TK
DATE: 03/06/2023







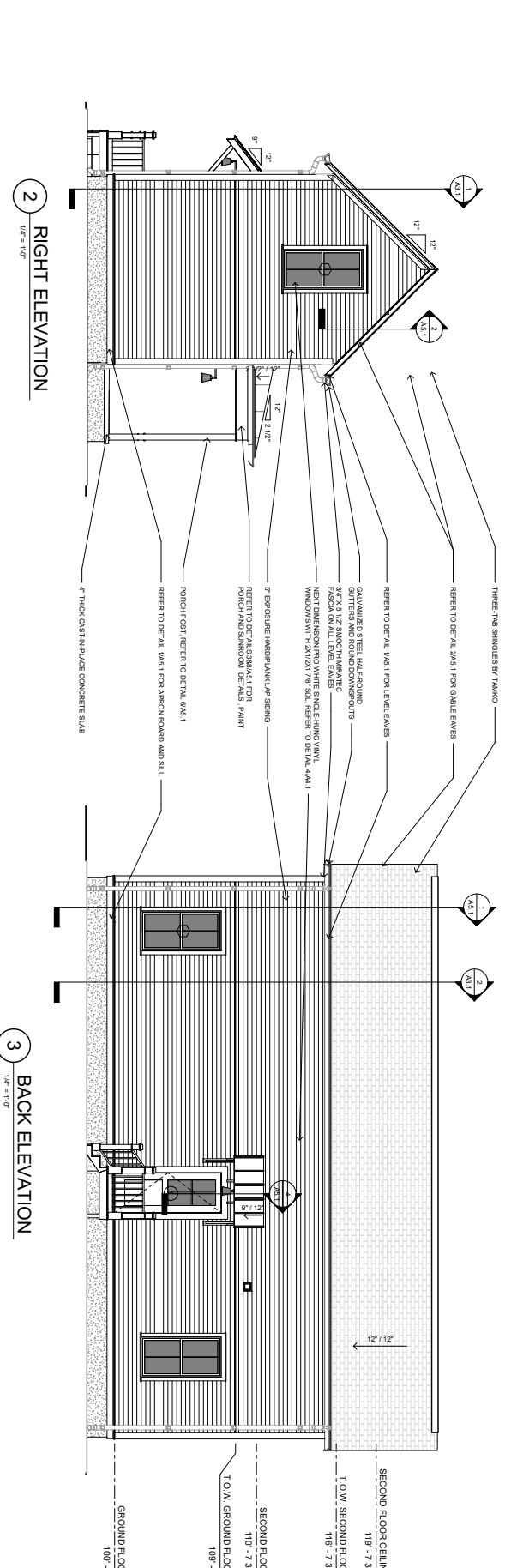
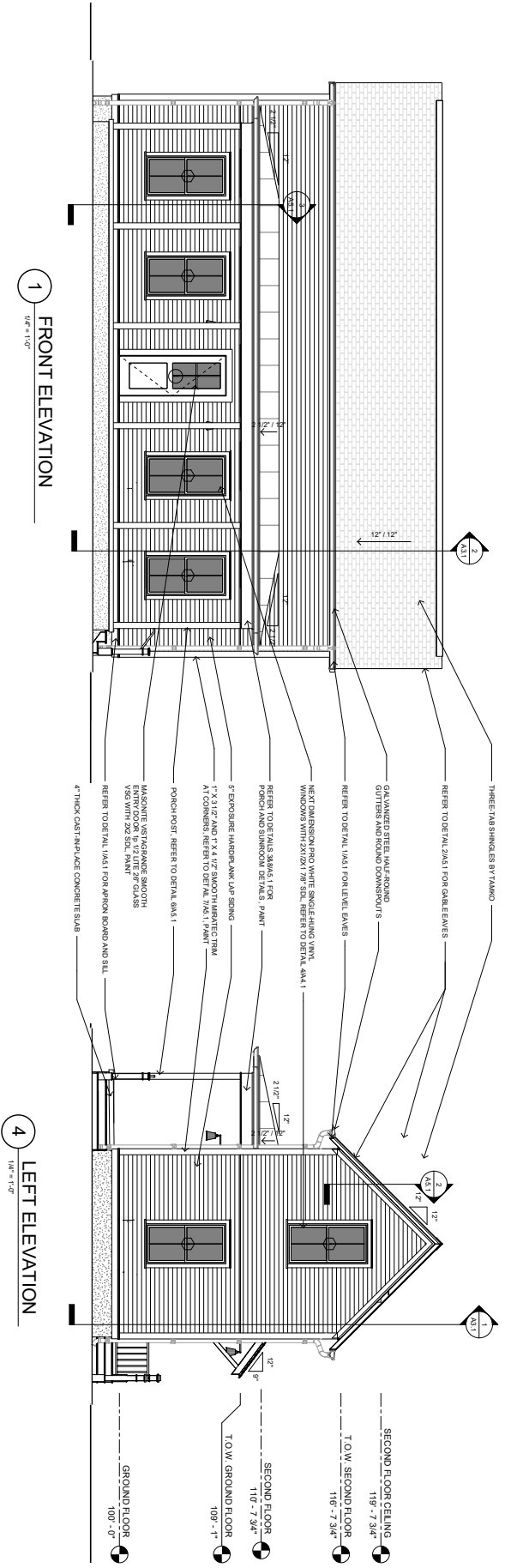
REVISION 0

CENTRAL
HALL
ELEVATION 2R

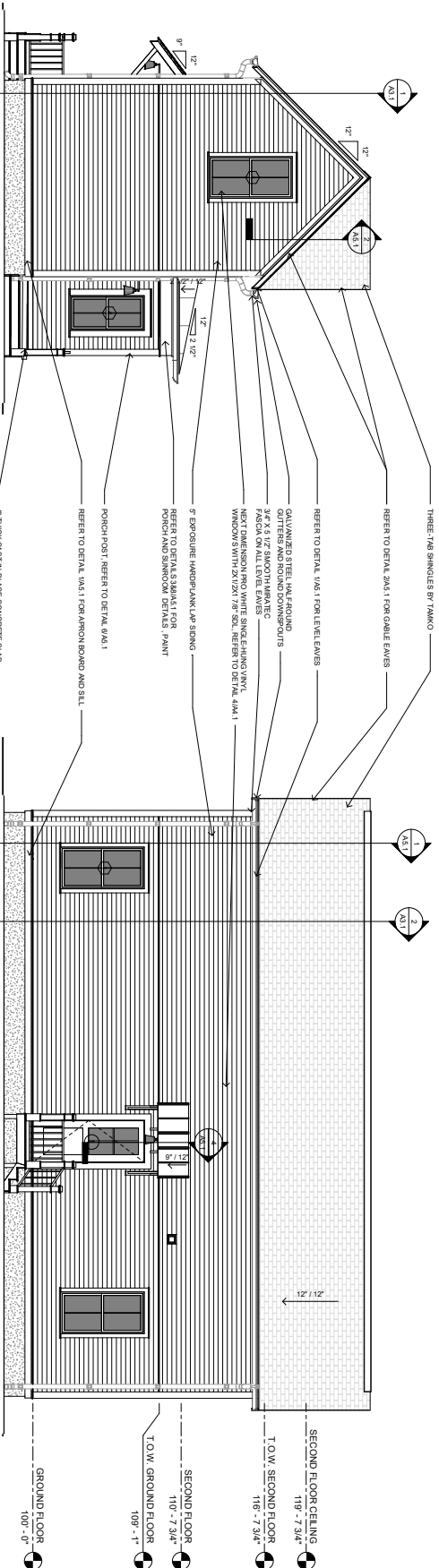
ISSUED FOR
CONSTRUCTION

ENGINEER: BT
DRAWN BY: TK
DATE: 08/08/2022

SHEET A2.1



BACK ELEVATION



SHEET A2.1

1

4

2

3

ISSUED FOR
CONSTRUCTION

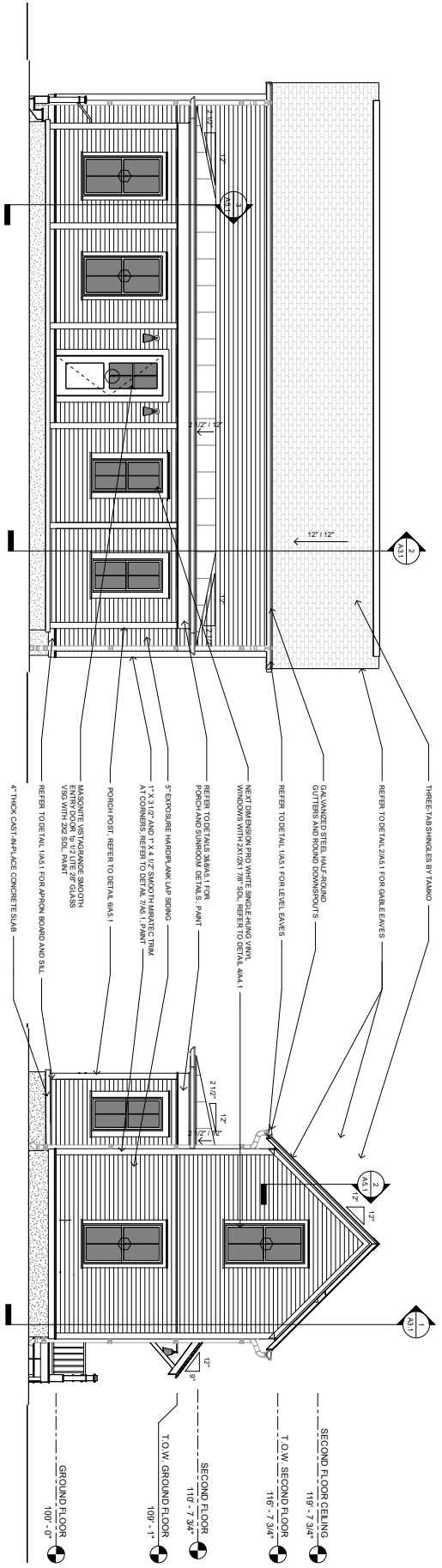
ENGINEER: BT
DRAWN BY: TK
DATE: 03/06/23

SHEET A2.1



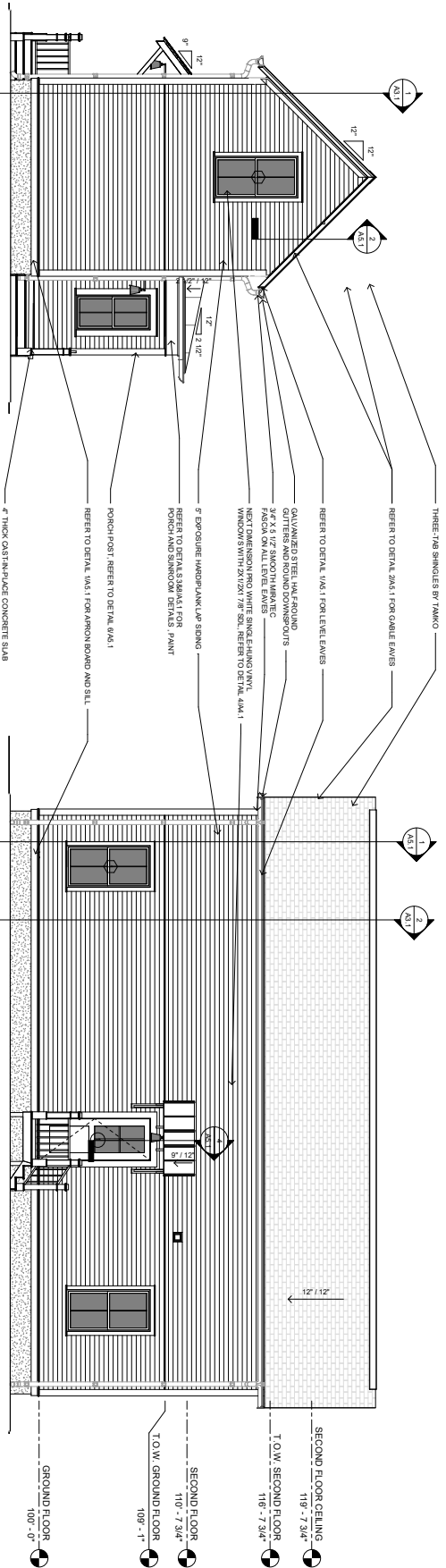
REVISION 0

CENTRAL
HALL
ELEVATION 4L



1 FRONT ELEVATION
1/4" = 1'-0"

4 LEFT ELEVATION
1/4" = 1'-0"



2 RIGHT ELEVATION
1/4" = 1'-0"

3 BACK ELEVATION
1/4" = 1'-0"

ISSUED FOR
CONSTRUCTION

ENGINEER: BT
DRAWN BY: TK
DATE: 08/08/2022

SHEET A2.1

ELEVATIONS



REVISION 0

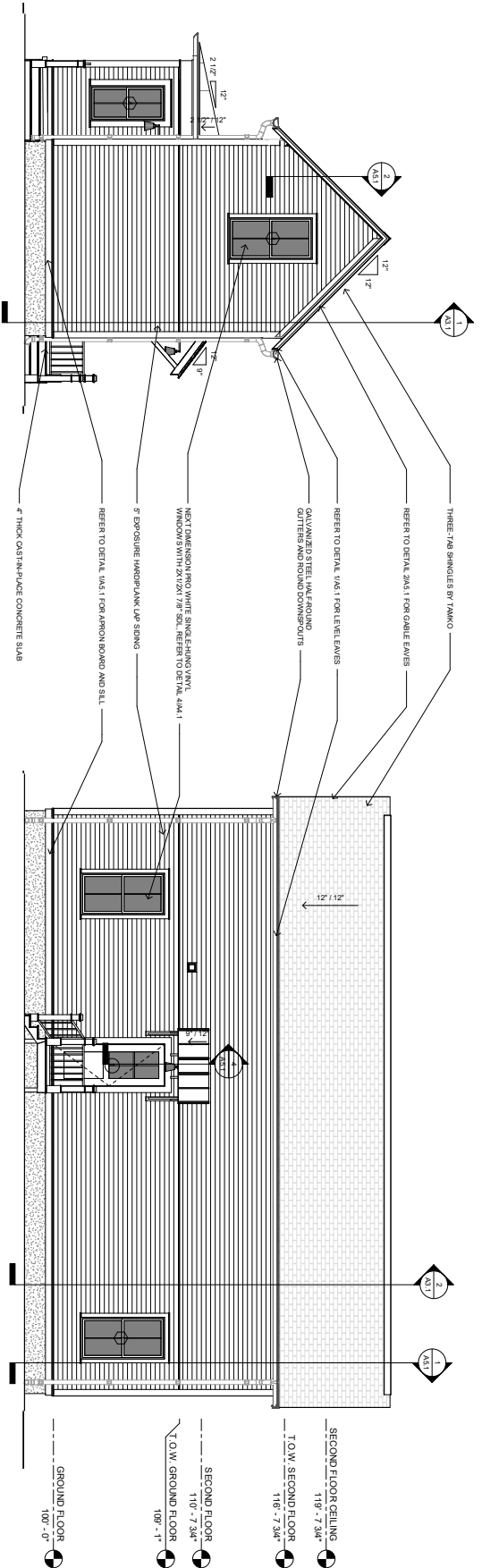
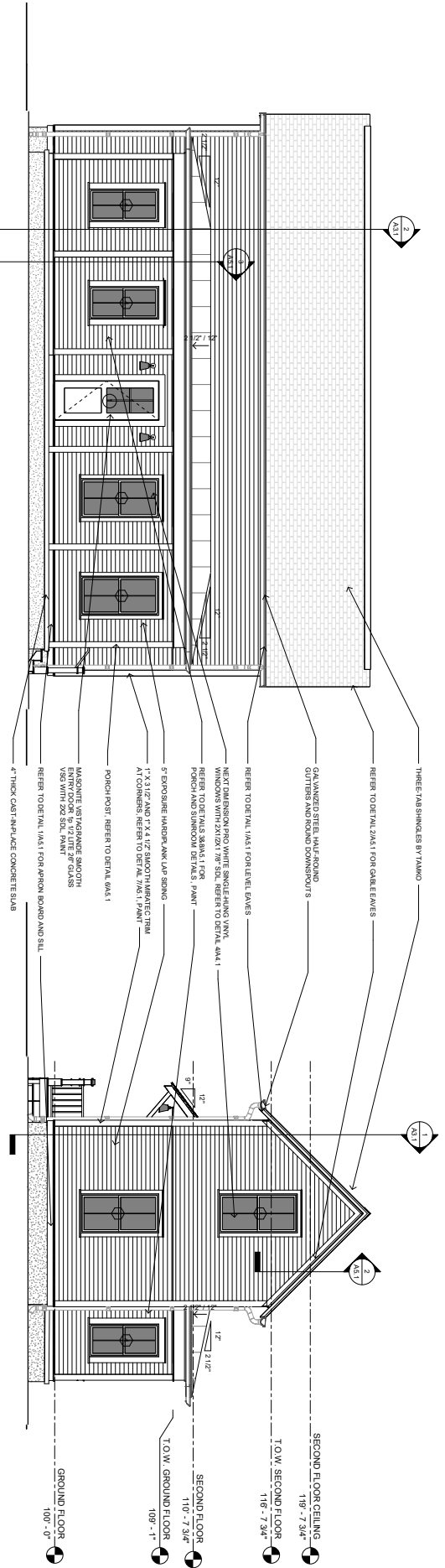
CENTRAL
HALL
ELEVATION 4R

ISSUED FOR
CONSTRUCTION

ENGINEER: BT
DRAWN BY: TK
DATE: 08/06/2022

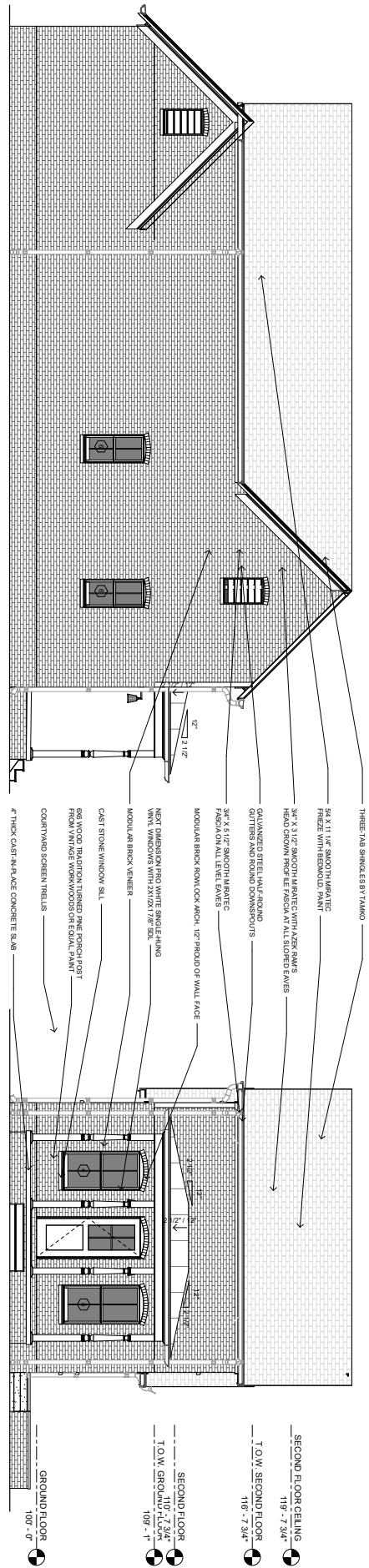
ELEVATIONS

SHEET A2.1



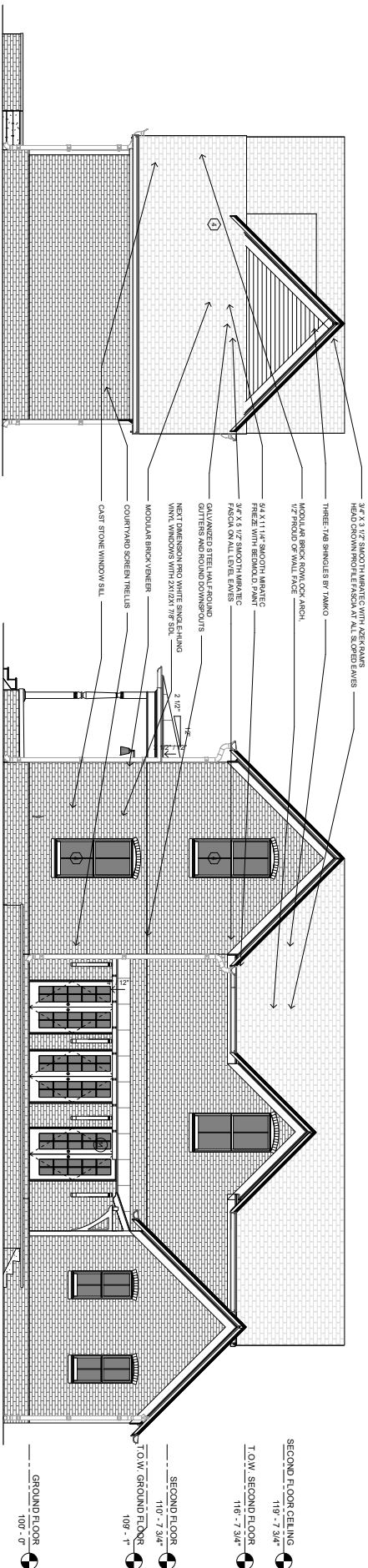


REVISION 0



4 LEFT ELEVATION
1/8" = 1'-0"

3 FRONT ELEVATION
1/8" = 1'-0"



2 BACK ELEVATION
1/8" = 1'-0"

1 RIGHT ELEVATION
1/8" = 1'-0"

DUPLEX COTTAGE
ELEVATION 4R

SECOND FLOOR CEILING
119' - 7 3/4"

T.O.W. SECOND FLOOR
116' - 7 3/4"

ISSUED FOR REVIEW

ENGINEER: BT
DRAWN BY: TK
DATE: 06/29/23

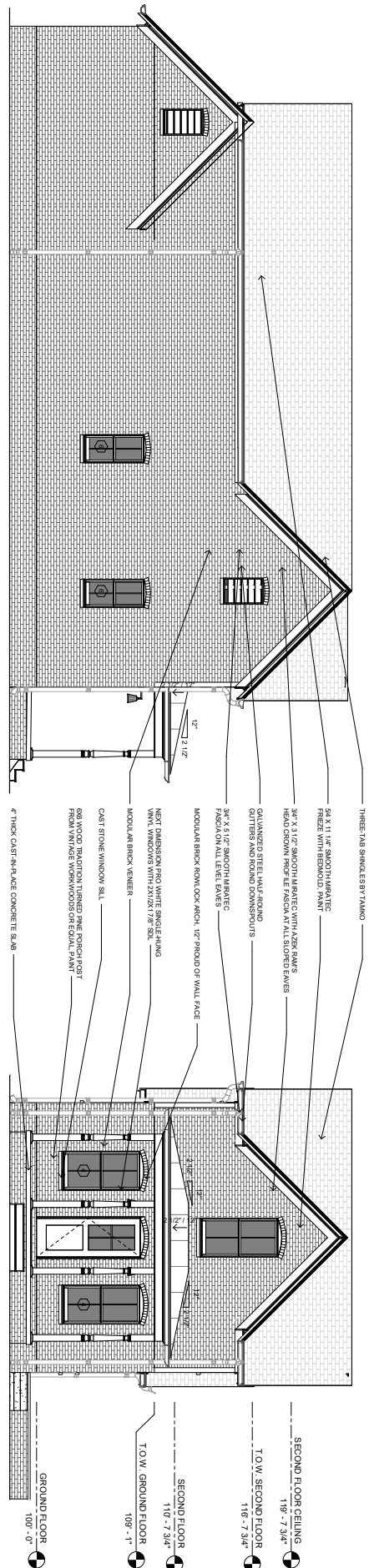
SECOND FLOOR
110' - 7 3/4"

T.O.W. GROUND FLOOR
109' - 1"

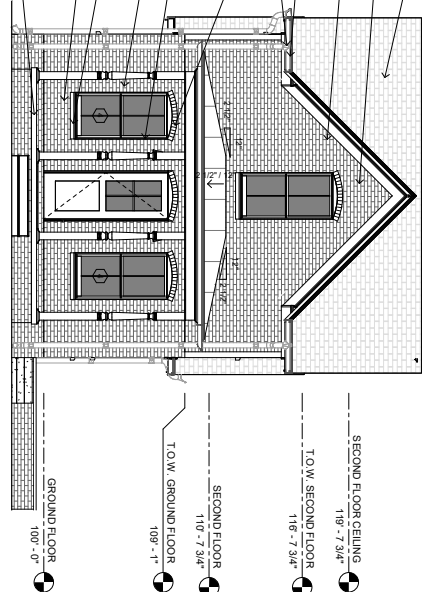
GROUND FLOOR
100' - 0"

ELEVATIONS

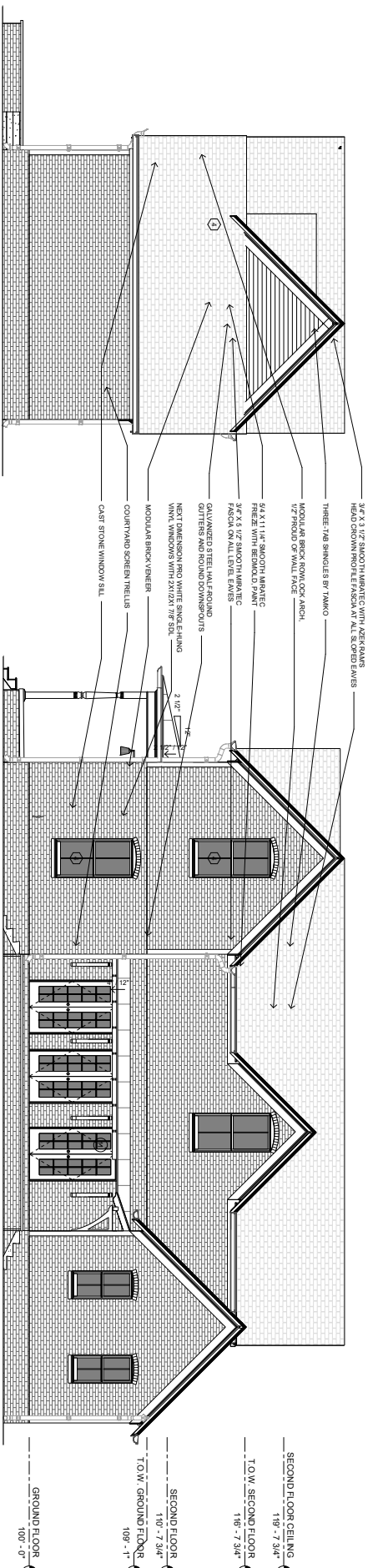
SHEET A2



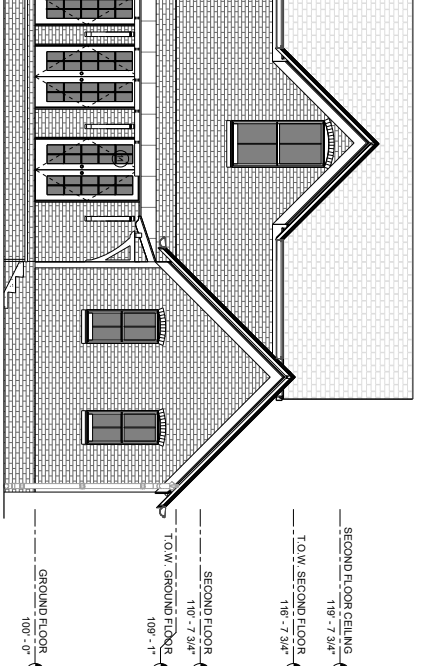
4 LEFT ELEVATION
1/8" = 1'-0"



3 FRONT ELEVATION
1/8" = 1'-0"



2 BACK ELEVATION
1/8" = 1'-0"



1 RIGHT ELEVATION
1/8" = 1'-0"

DUPLEX COTTAGE
ELEVATION 5R

SECOND FLOOR CEILING
119' - 7 3/4"
T.O.W. SECOND FLOOR
116' - 7 3/4"
ISSUED FOR REVIEW

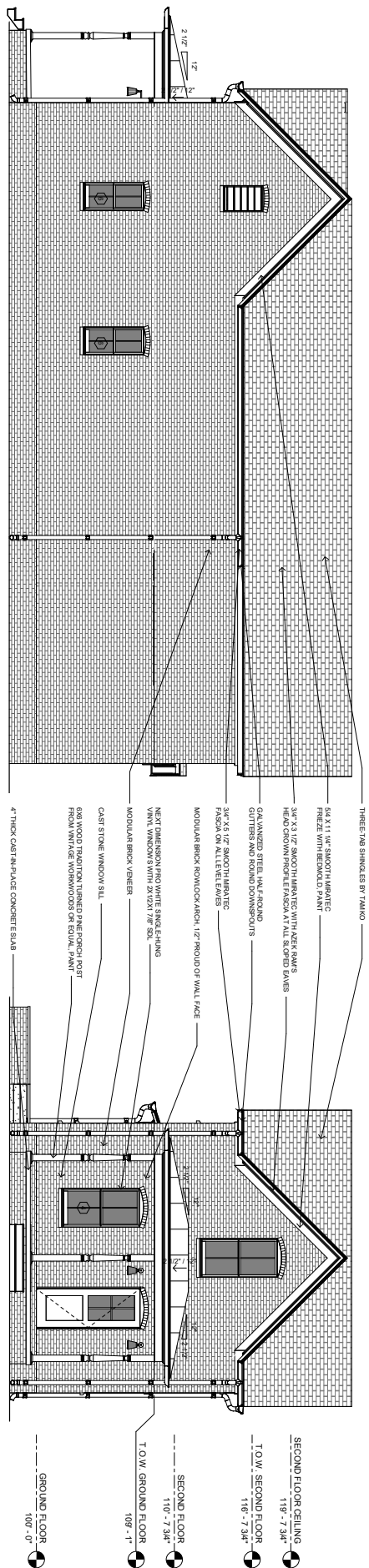
SECOND FLOOR
110' - 7 3/4"
T.O.W. GROUND FLOOR
109' - 1"

GROUND FLOOR
100' - 0"

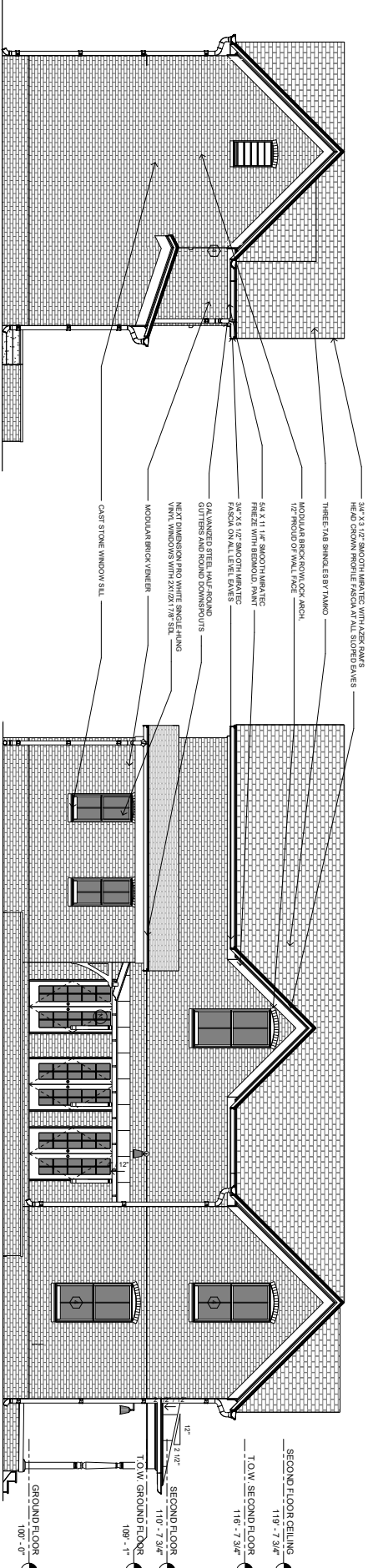
SHEET A2



REVISION 0



4 LEFT ELEVATION
1/4" = 1'-0"



1 RIGHT ELEVATION
1/4" = 1'-0"

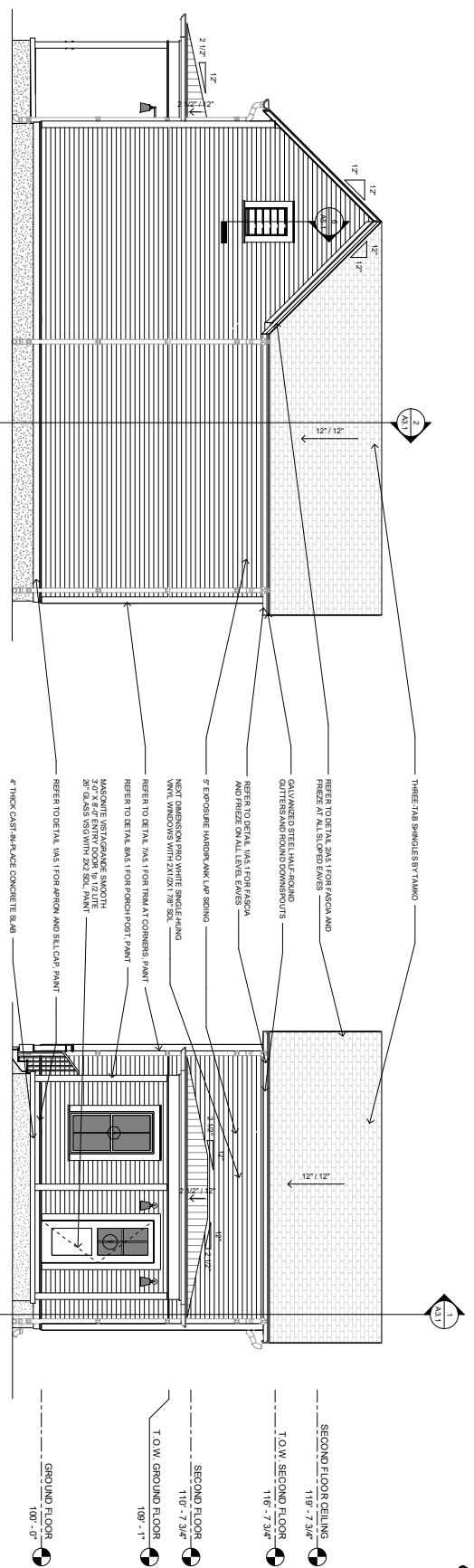
CERTIFICATE OF AUTHORIZATION
BY DESIGN
LLC
15000
MECHANICAL ENGINEERING
STATE OF NORTH CAROLINA

REVISION 0

DUPLEX COTTAGE
ELEVATION 6L

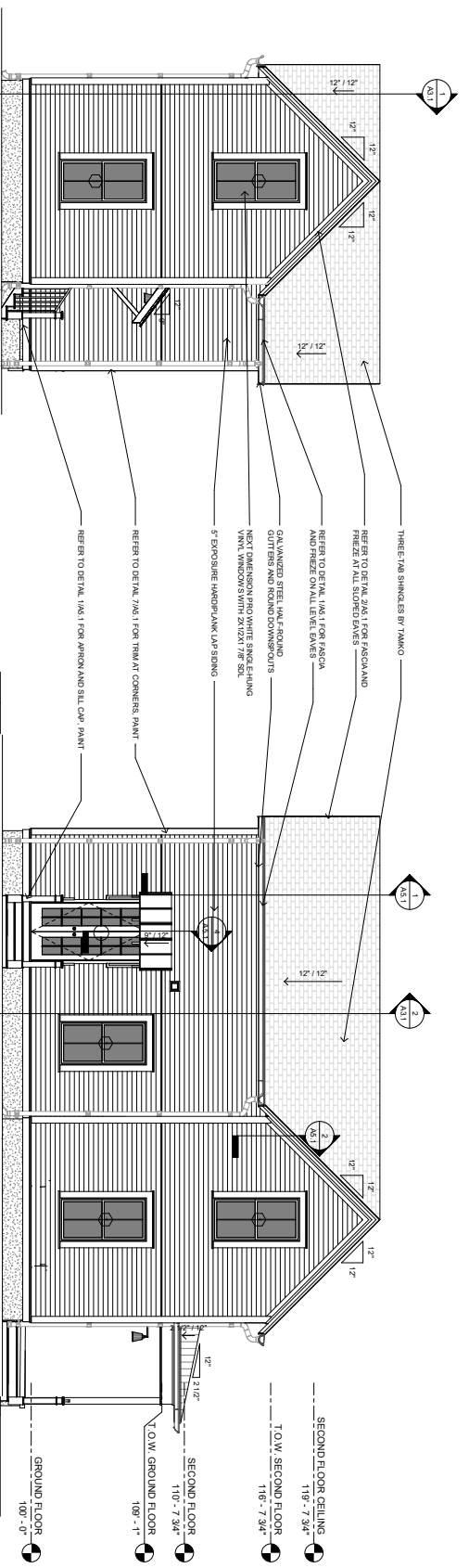
SECOND FLOOR CEILING	119' - 7 3/4"
T.O.W. SECOND FLOOR	119' - 7 3/4"
SECOND FLOOR	110' - 7 3/4"
T.O.W. GROUND FLOOR	109' - 1"
GROUND FLOOR	100' - 0"
ELEVATIONS	
SHEET A2	
ISSUED FOR REVIEW	
DESIGNED BY: K	
DATE: 06/29/23	

2 BACK ELEVATION
1/4" = 1'-0"



2 LEFT ELEVATION
1/8" = 1'-0"

1 FRONT ELEVATION
1/8" = 1'-0"



3 BACK ELEVATION
1/8" = 1'-0"

4 RIGHT ELEVATION
1/8" = 1'-0"

DUPLEX
COTTAGE
ELEVATION 1L

ISSUED FOR
CONSTRUCTION

DESIGNED BY
DRAWN BY: K
DATE: 03/06/2023

ELEVATIONS

SHEET A2.1



community development



REVISION 0

DUPE
COTTAGE
ELEVATION 1R

ISSUED FOR
CONSTRUCTION

DESIGNED BY
DRAWN BY: K
DATE: 03/06/2023

ELEVATIONS

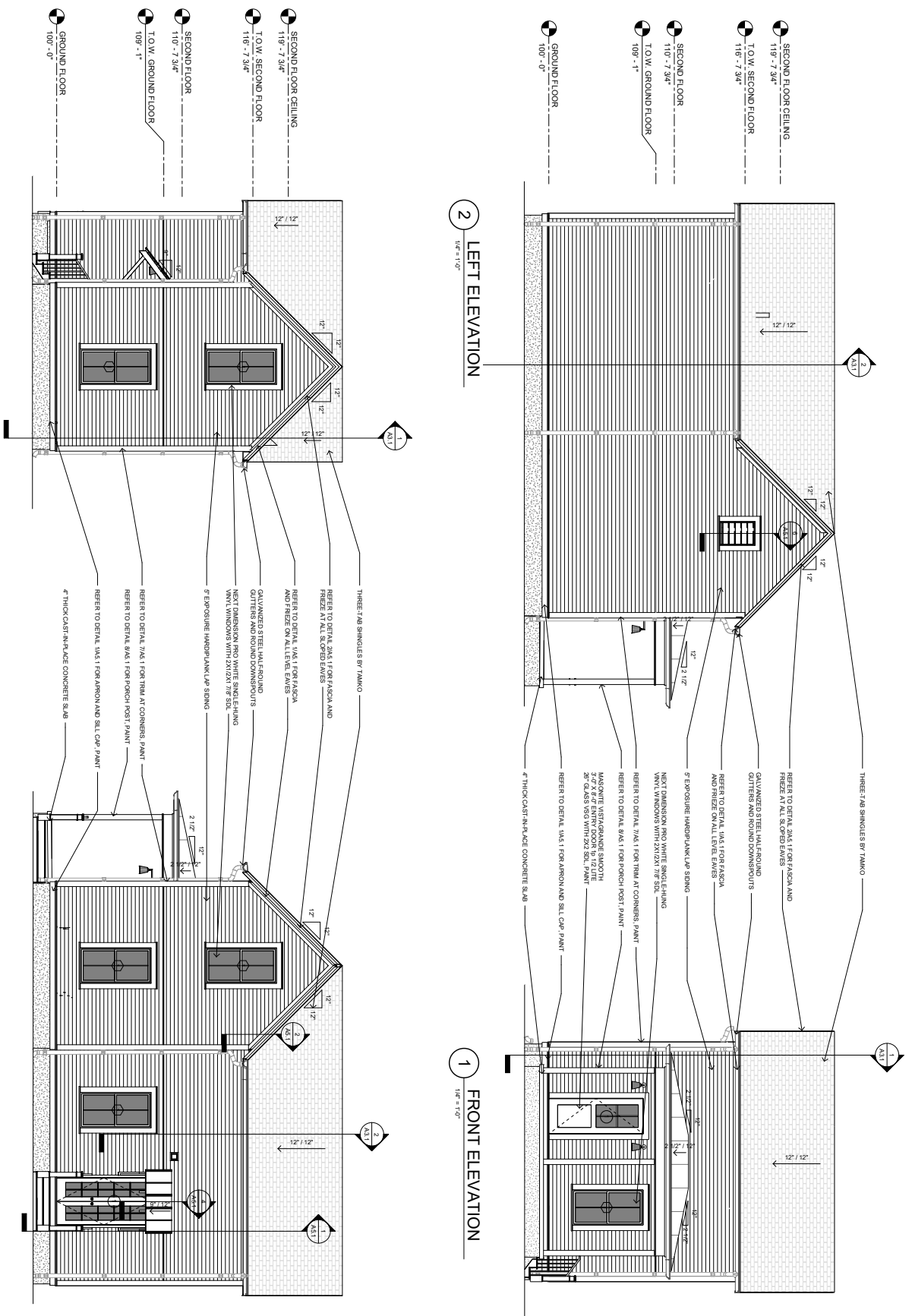
SHEET A2.1

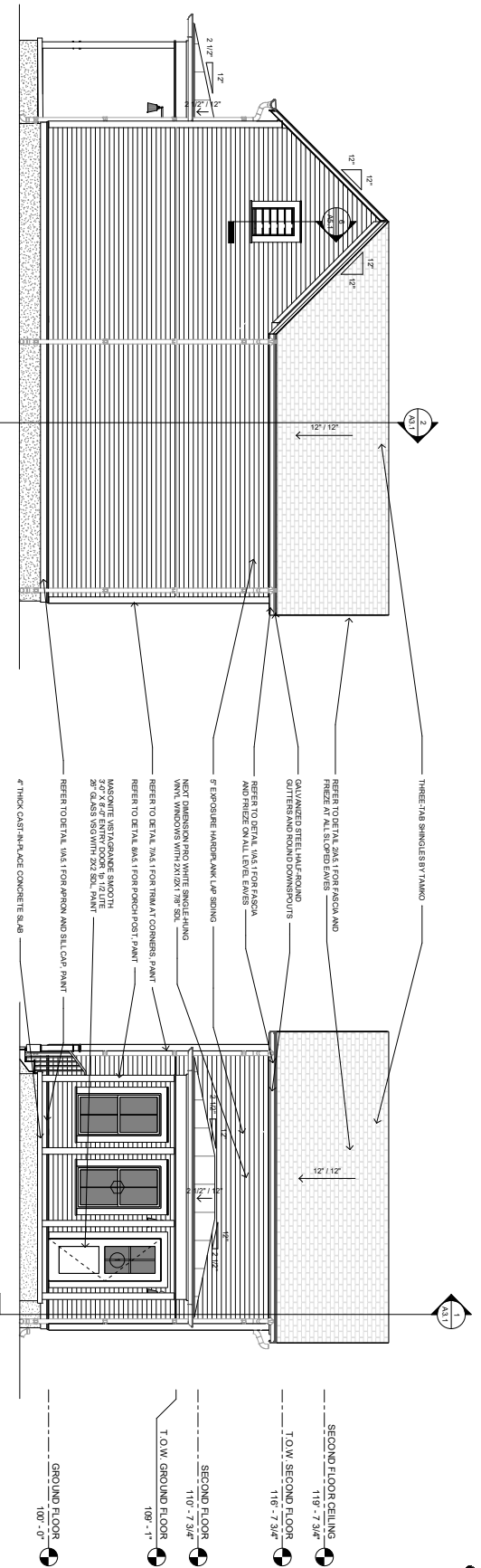
2 LEFT ELEVATION
1/8" = 1'-0"

1 FRONT ELEVATION
1/8" = 1'-0"

3 BACK ELEVATION
1/8" = 1'-0"

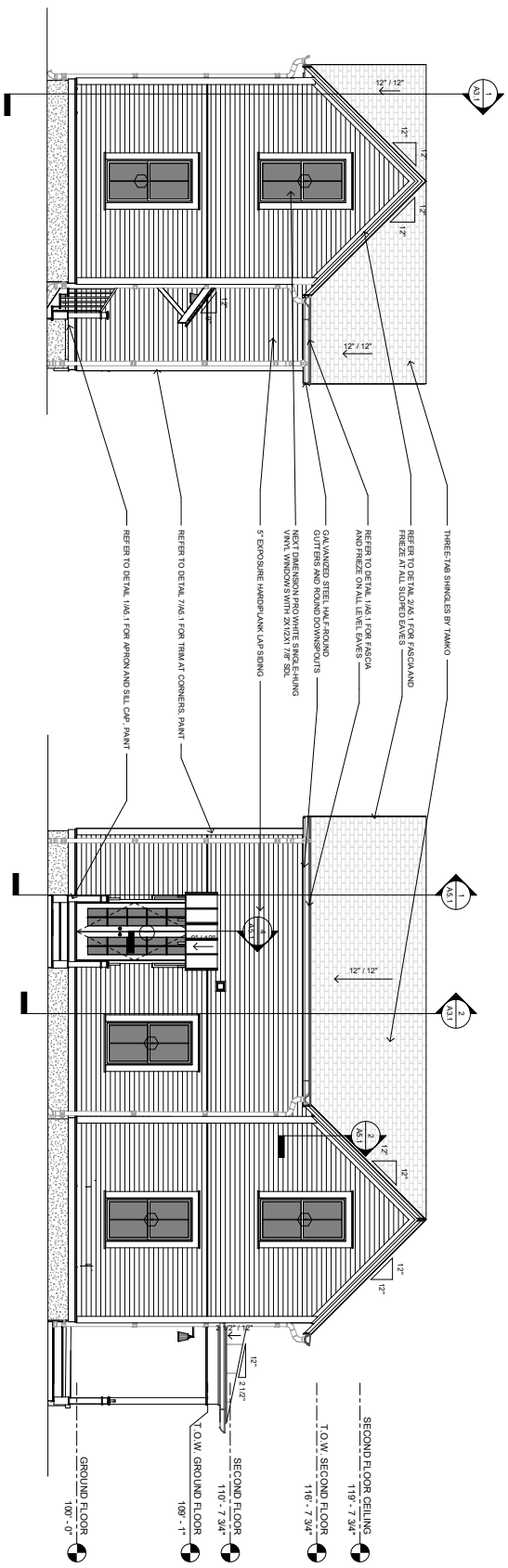
4 RIGHT ELEVATION
1/8" = 1'-0"





2 LEFT ELEVATION
1/8" = 1'-0"

1 FRONT ELEVATION
1/8" = 1'-0"



3 BACK ELEVATION
1/8" = 1'-0"

4 RIGHT ELEVATION
1/8" = 1'-0"

DUPLE
COTTAGE
ELEVATION 2L

ISSUED FOR
CONSTRUCTION

DESIGNED BY
DRAWN BY: K
DATE: 03/06/2023

ELEVATIONS

SHEET A2.1



REVISION 0

community development



REVISION 0

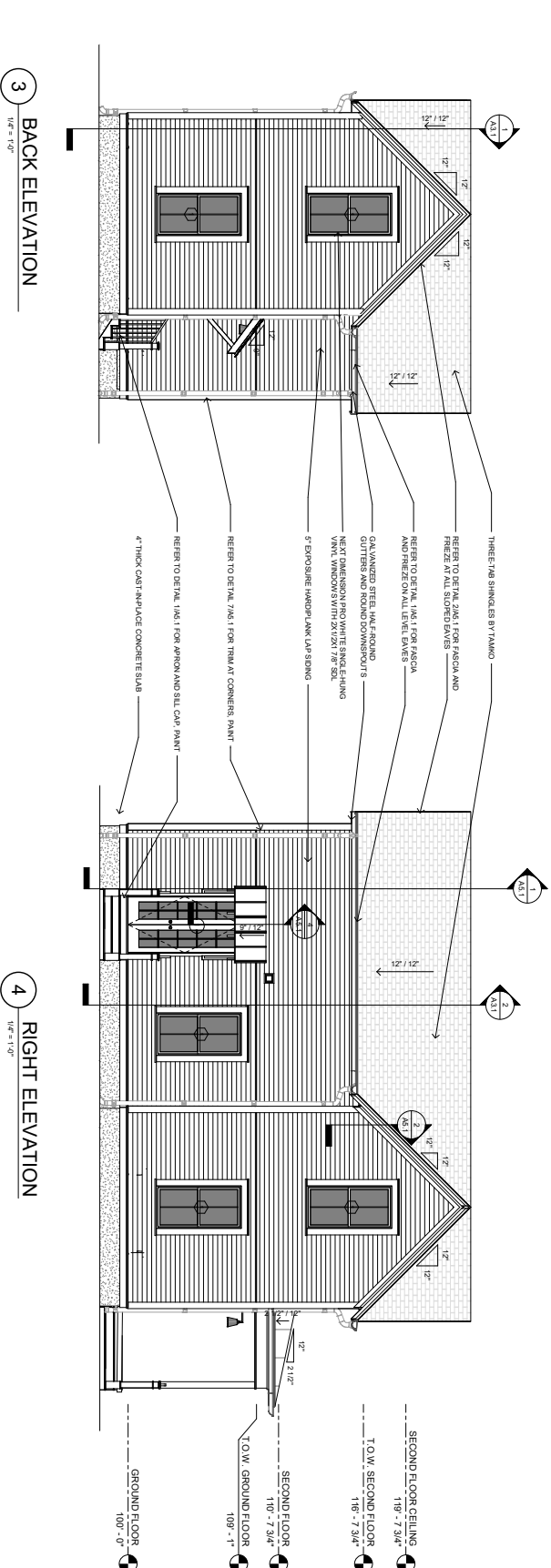
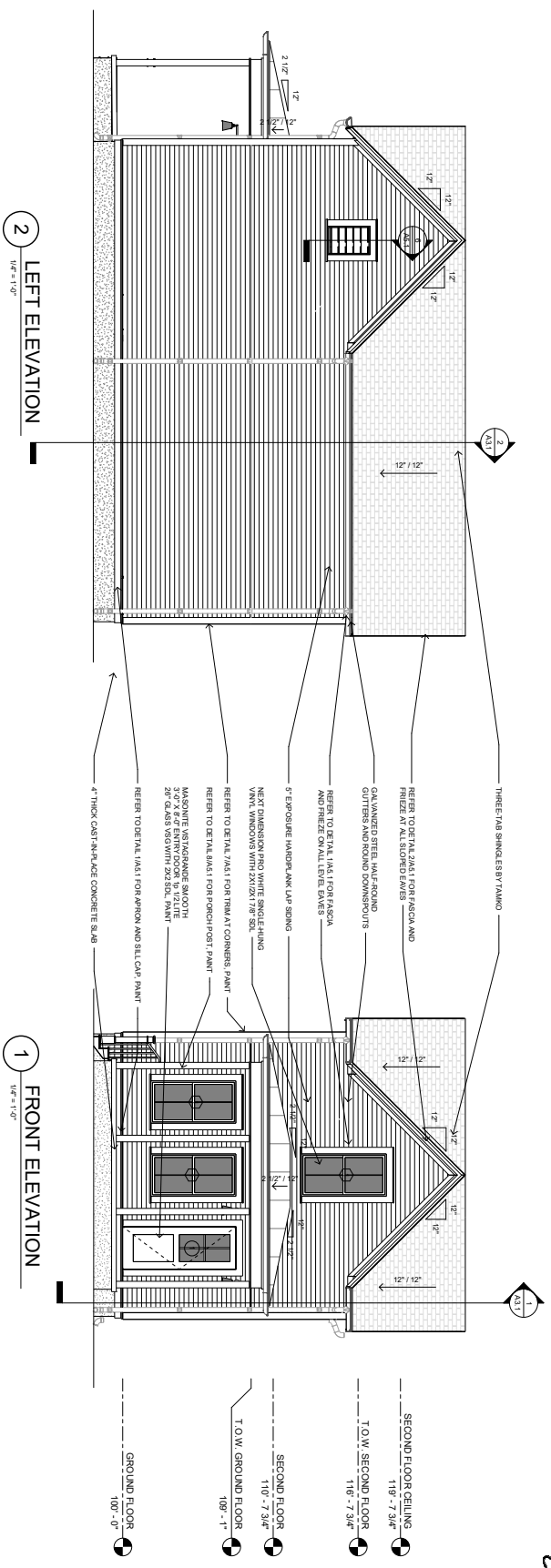
DUPE
COTTAGE
ELEVATION 3L

ISSUED FOR
CONSTRUCTION

DESIGNED BY
DRAWN BY: K
DATE: 03/06/2023

ELEVATIONS

SHEET A2.1





REVISION 0

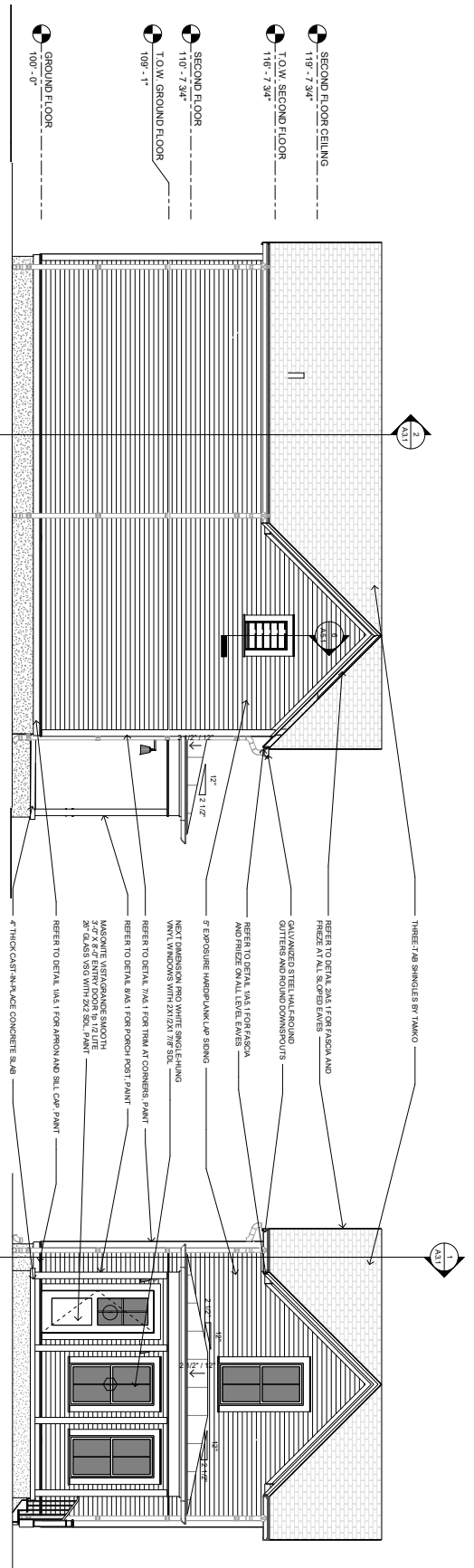
DUPE
COTTAGE
ELEVATION 3R

ISSUED FOR
CONSTRUCTION

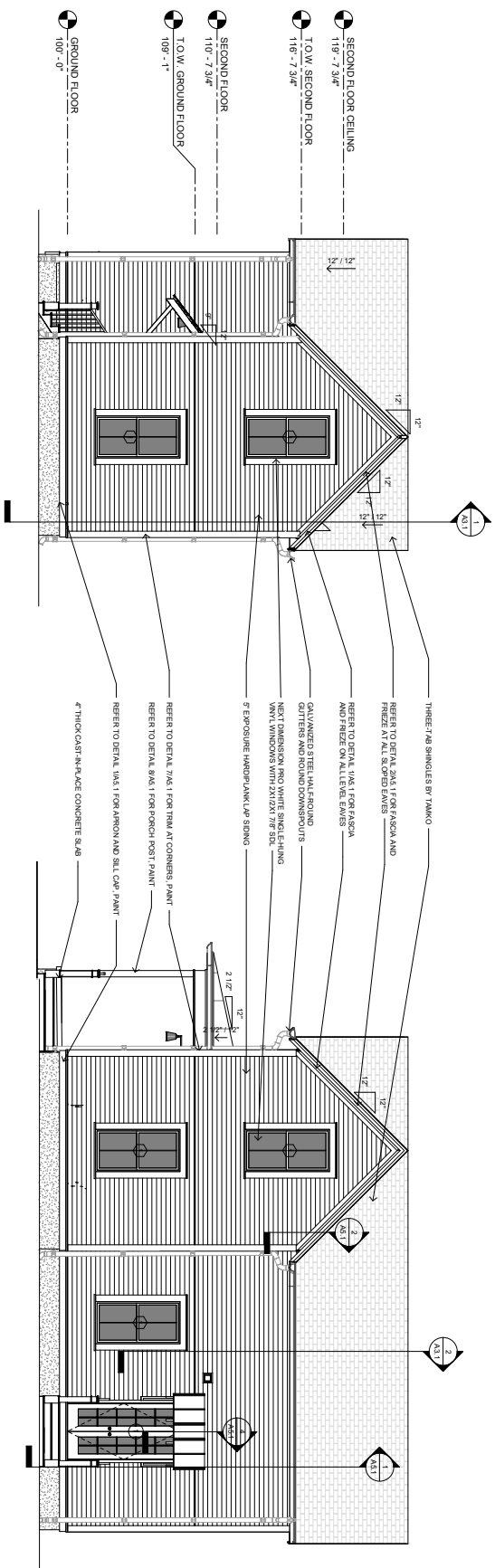
DESIGNED BY
DRAWN BY: K
DATE: 03/06/2023

ELEVATIONS

SHEET A2.1

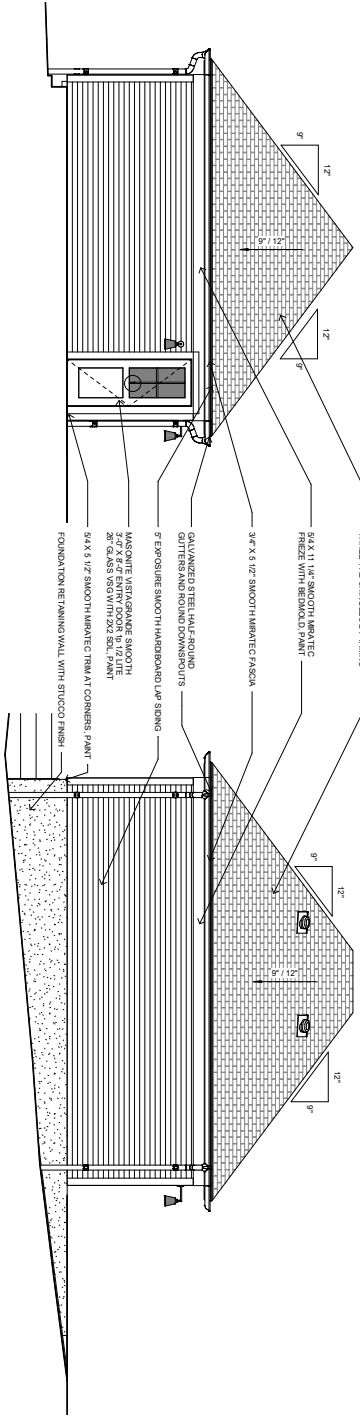


2 LEFT ELEVATION
1/8\"/>



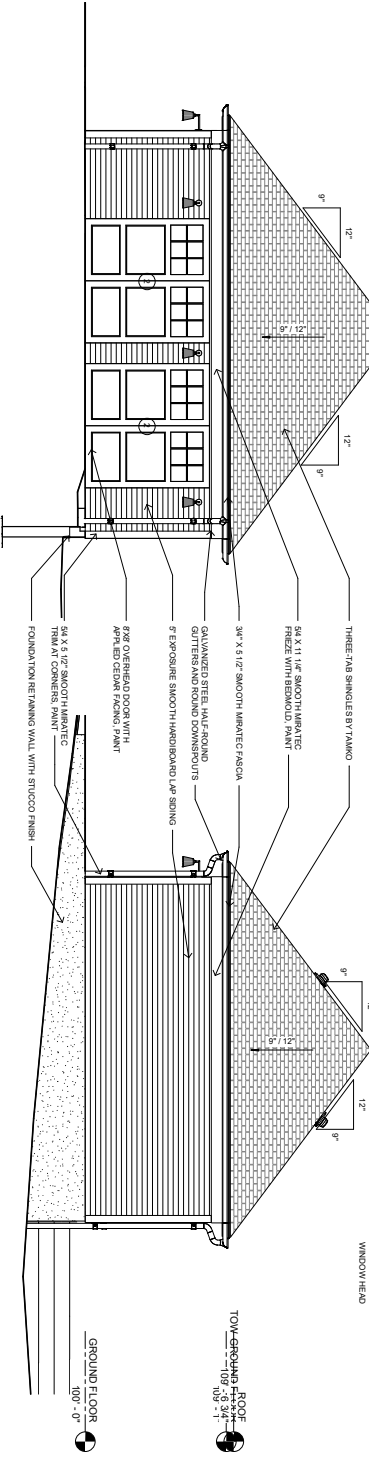
3 BACK ELEVATION
1/8\"/>

4 RIGHT ELEVATION
1/8\"/>



3 EAST ELEVATION
1/4" = 1'-0"

4 SOUTH ELEVATION
1/4" = 1'-0"



2 NORTH ELEVATION
1/4" = 1'-0"

1 WEST ELEVATION
1/4" = 1'-0"

CARRIAGE
HOUSE

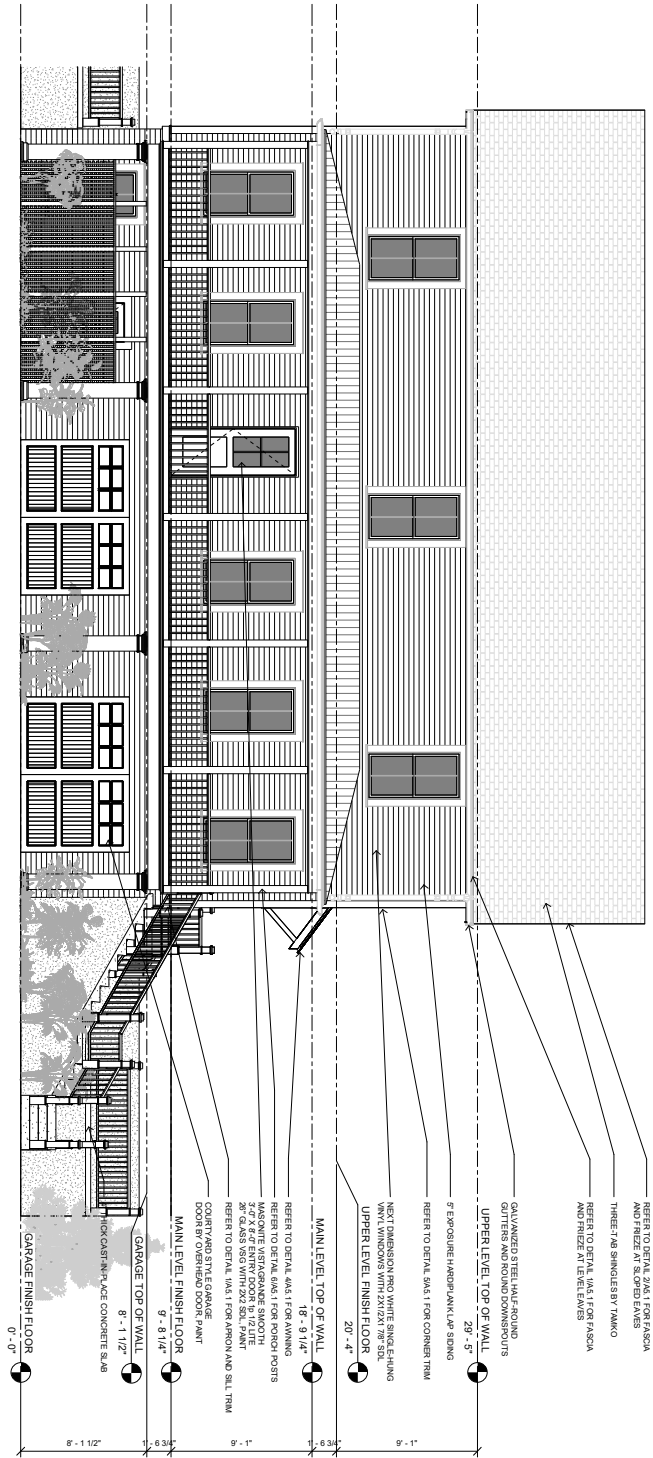
ISSUED FOR REVIEW

DESIGNED BY
DRAWN BY: K
DATE: 06/29/23

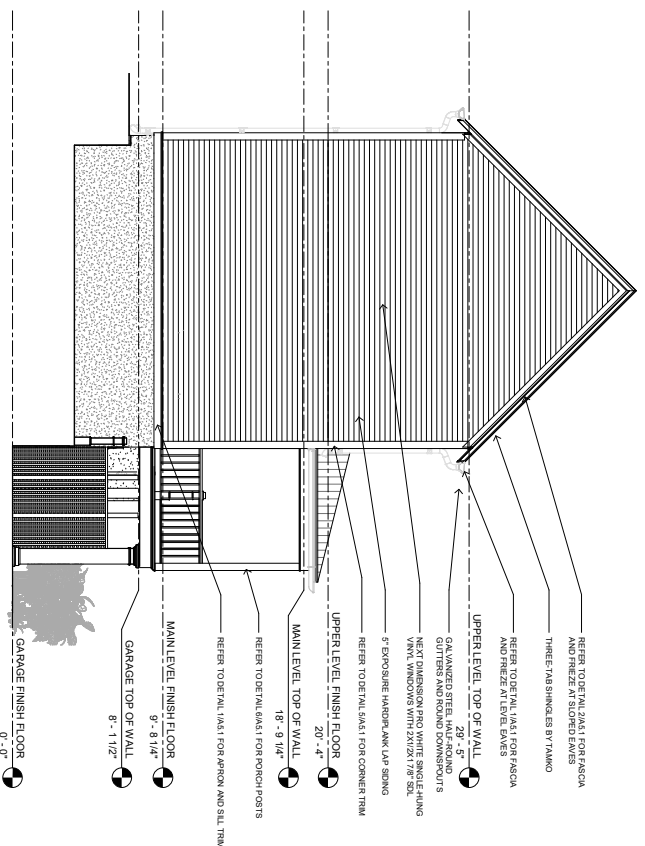
ELEVATIONS

SHEET A2.1





1 FRONT ELEVATION
1/4" = 1'-0"



2 RIGHT ELEVATION
1/4" = 1'-0"

1 HOUSE
ELEVATION 6R

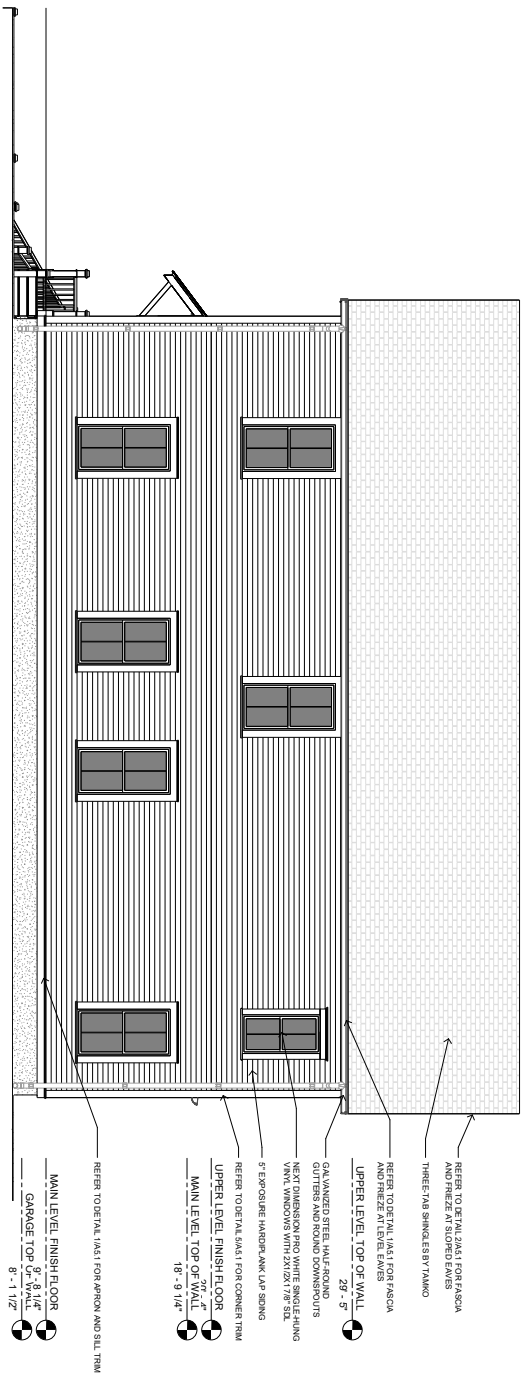
ISSUED FOR
CONSTRUCTION
ENGINEER: BT
DRAWN BY: TK
DATE: 07/20/2023

ELEVATIONS
SHEET A2.1

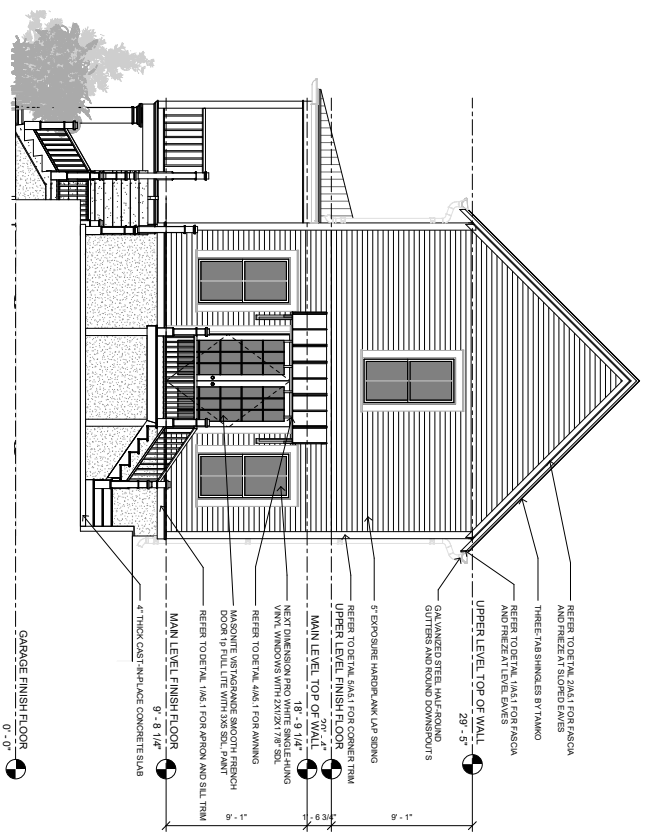




Community Design
August 14, 2022



1 BACK ELEVATION
1/4" = 1'-0"



2 LEFT ELEVATION
1/4" = 1'-0"

1 HOUSE
ELEVATION 6R

ISSUED FOR
CONSTRUCTION

ENGINEER: BT
DRAWN BY: TK
DATE: 07/20/2022

ELEVATIONS

SHEET A2.2



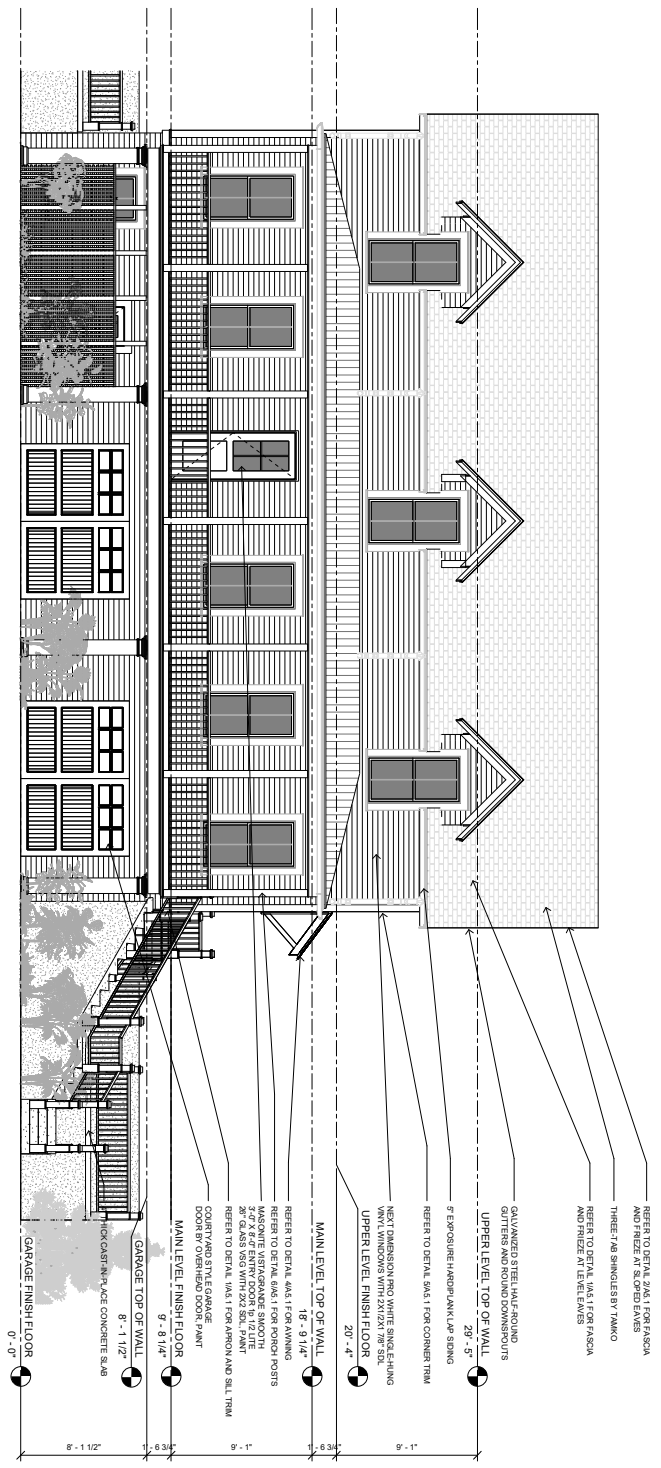
REVISION 0

1 HOUSE
ELEVATION 7R

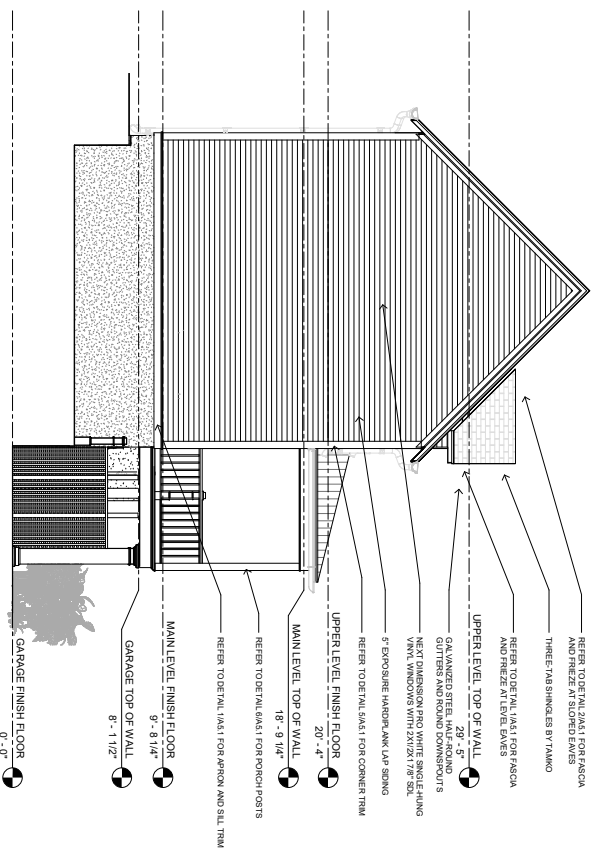
ISSUED FOR
CONSTRUCTION

ENGINEER: BT
DRAWN BY: TK
DATE: 07/20/2022

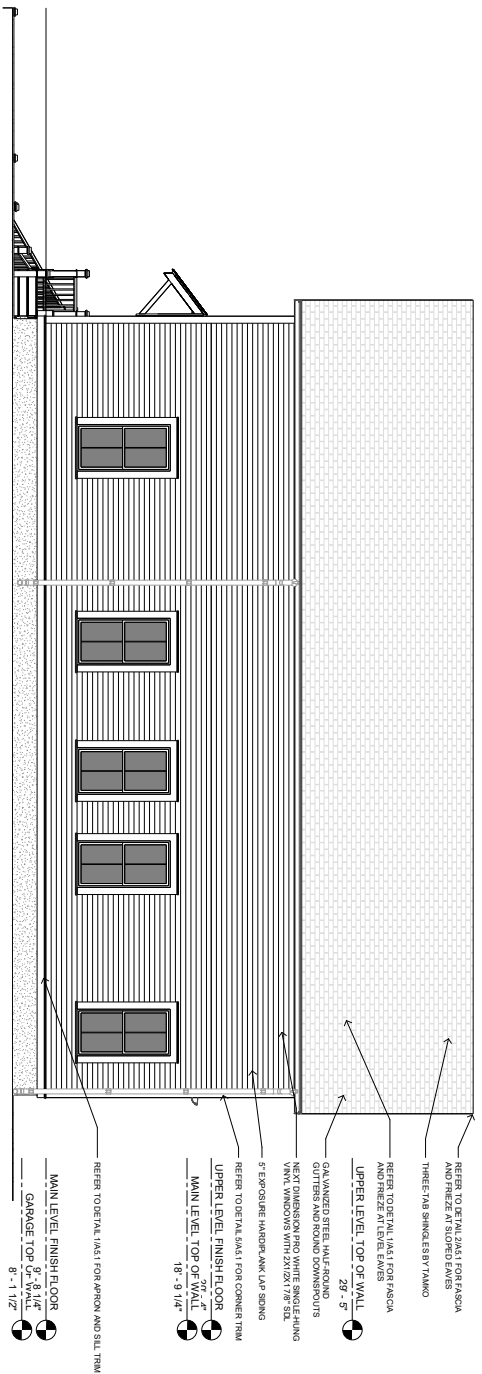
SHEET A2.1



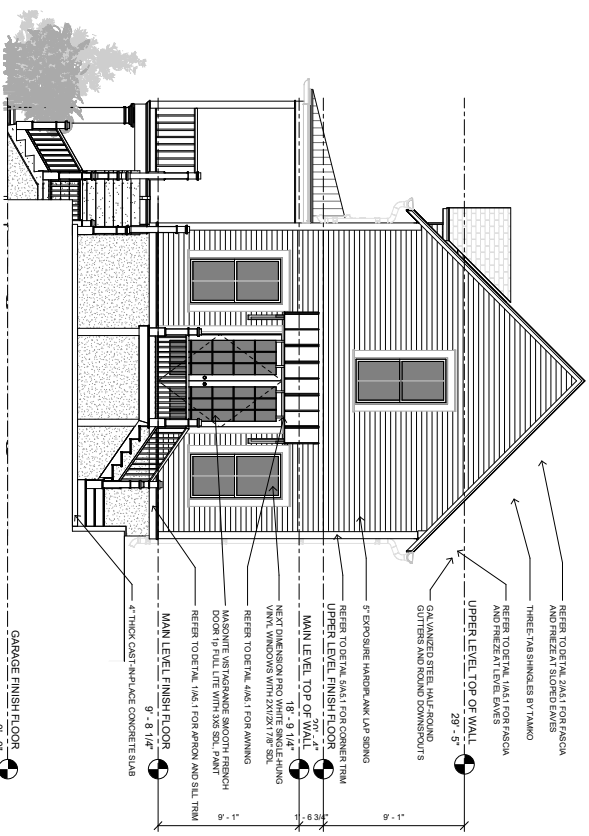
1 FRONT ELEVATION
1/8" = 1'-0"



2 RIGHT ELEVATION
1/8" = 1'-0"



1 BACK ELEVATION
1/4" = 1'-0"



2 LEFT ELEVATION
1/4" = 1'-0"

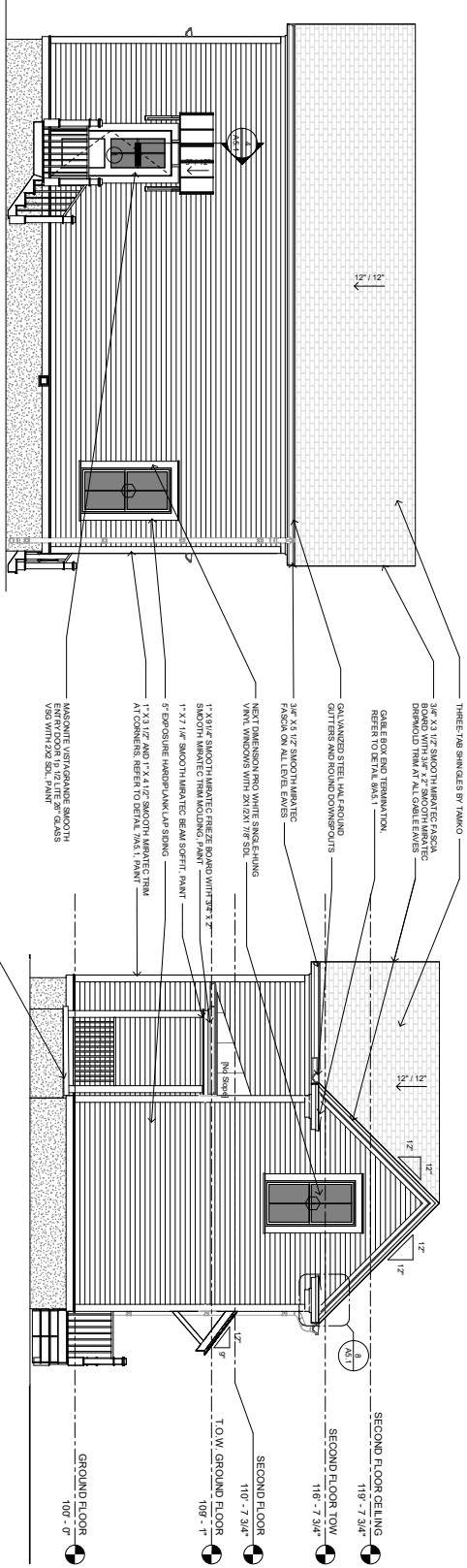
I HOUSE
ELEVATION 7R

ISSUED FOR
CONSTRUCTION

ENGINEER: BT
DRAWN BY: TK
DATE: 07/20/2022

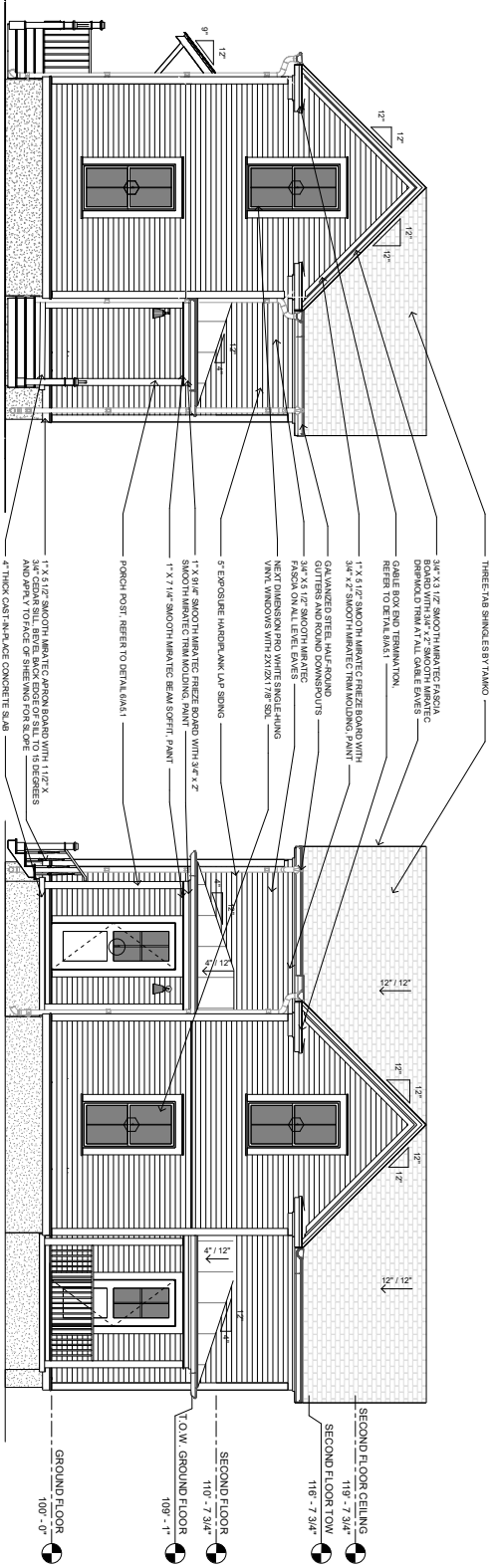
ELEVATIONS

SHEET A2.2



3 LEFT ELEVATION
1/4" = 1'-0"

4 BACK ELEVATION
1/4" = 1'-0"



1 FRONT ELEVATION
1/4" = 1'-0"

2 RIGHT ELEVATION
1/4" = 1'-0"

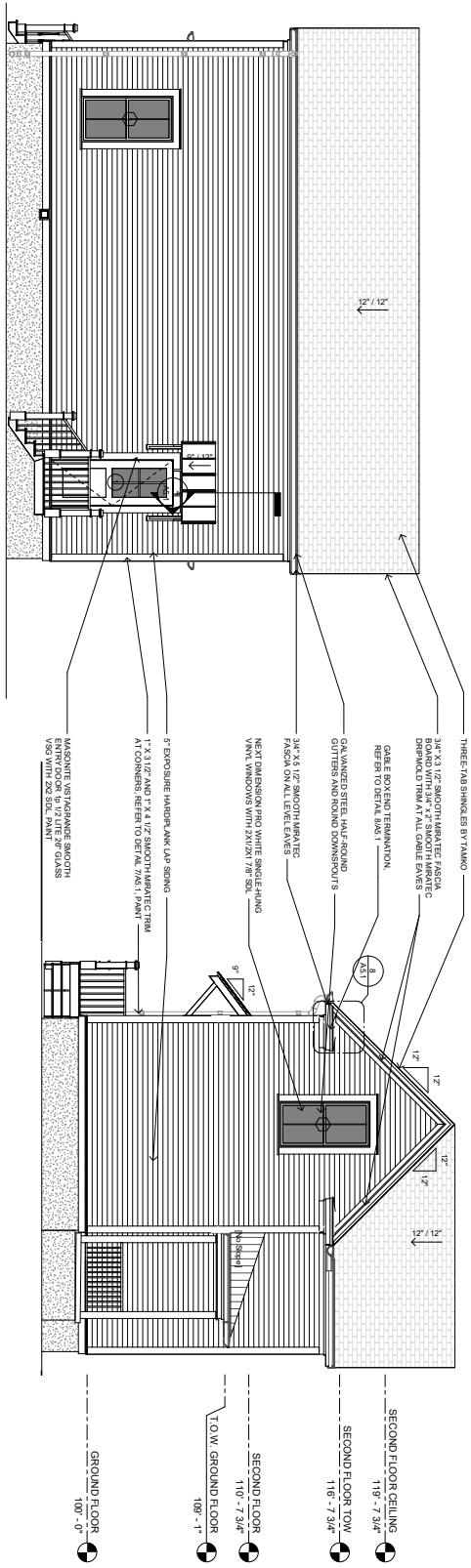
PROW HOUSE
ELEVATION 1L

ISSUED FOR
CONSTRUCTION

DRAWN BY: K
DATE: 03/06/2023

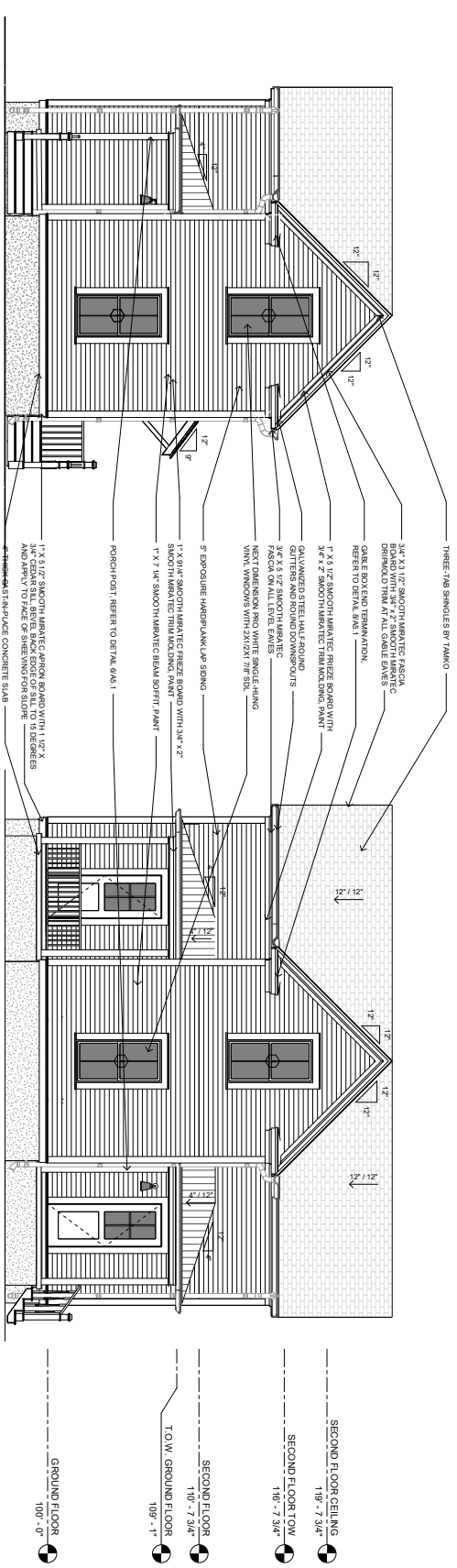
ELEVATIONS

SHEET A2.1



3 LEFT ELEVATION

4 BACK ELEVATION



1 FRONT ELEVATION

2 RIGHT ELEVATION

PROW HOUSE
ELEVATION 1R

ISSUED FOR
CONSTRUCTION

ENGINEER: BT
DRAWN BY: TK
DATE: 08/08/2022

ELEVATIONS

SHEET A2.1



REVISION 0

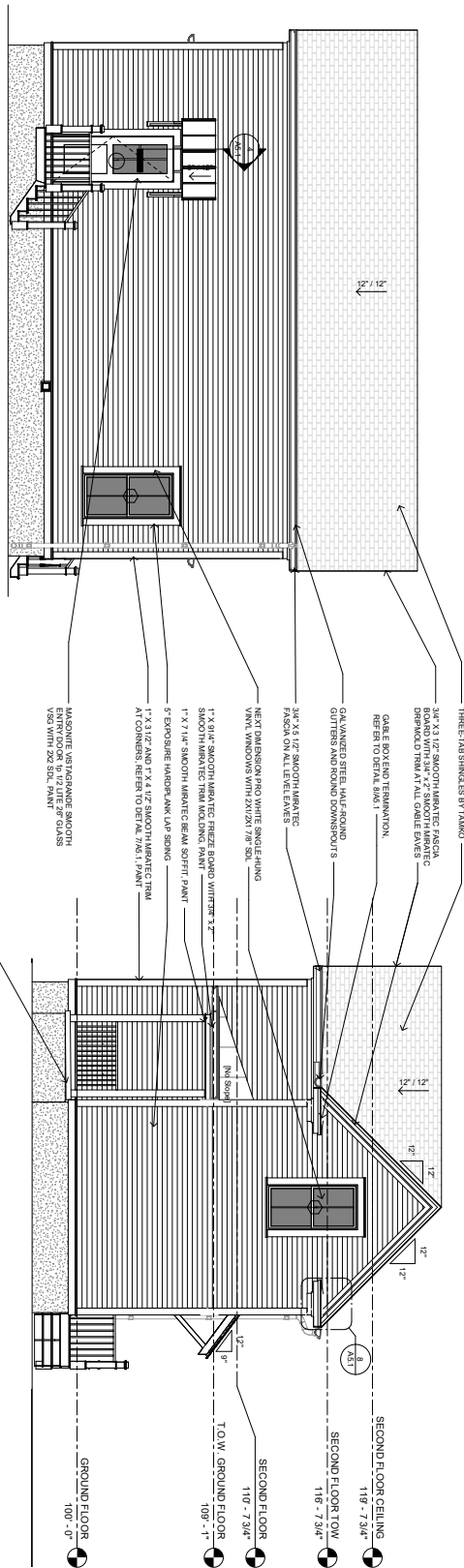
PROW HOUSE
ELEVATION 2L

ISSUED FOR
CONSTRUCTION

ENGINEER: BT
DRAWN BY: TK
DATE: 08/06/2022

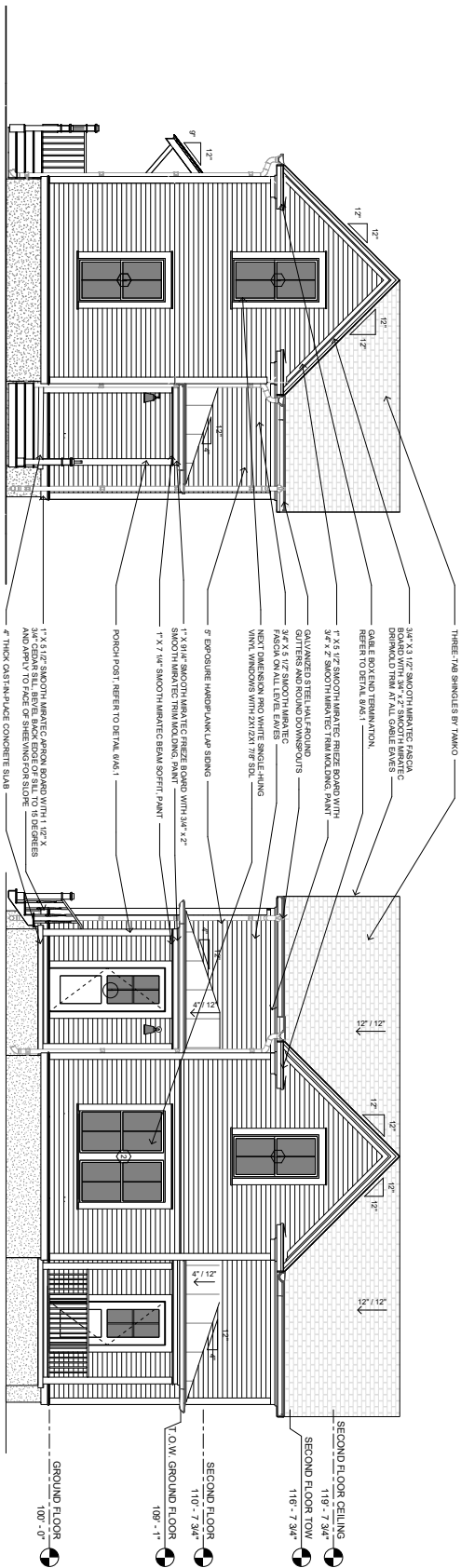
ELEVATIONS

SHEET A2.1



4 BACK ELEVATION

3 LEFT ELEVATION

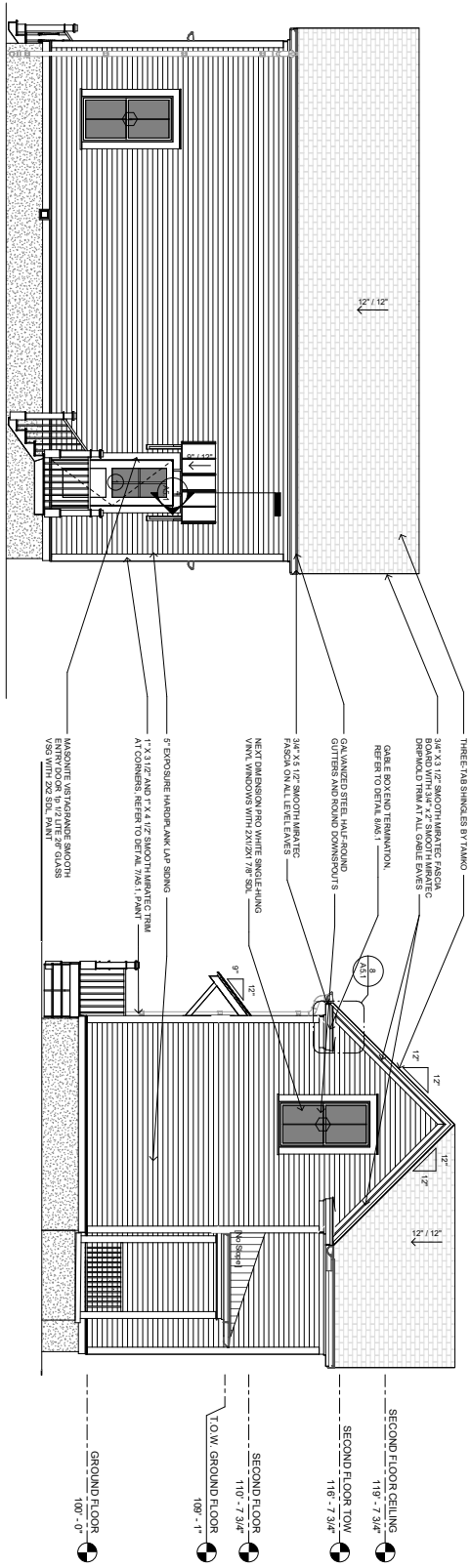


2 RIGHT ELEVATION

1 FRONT ELEVATION

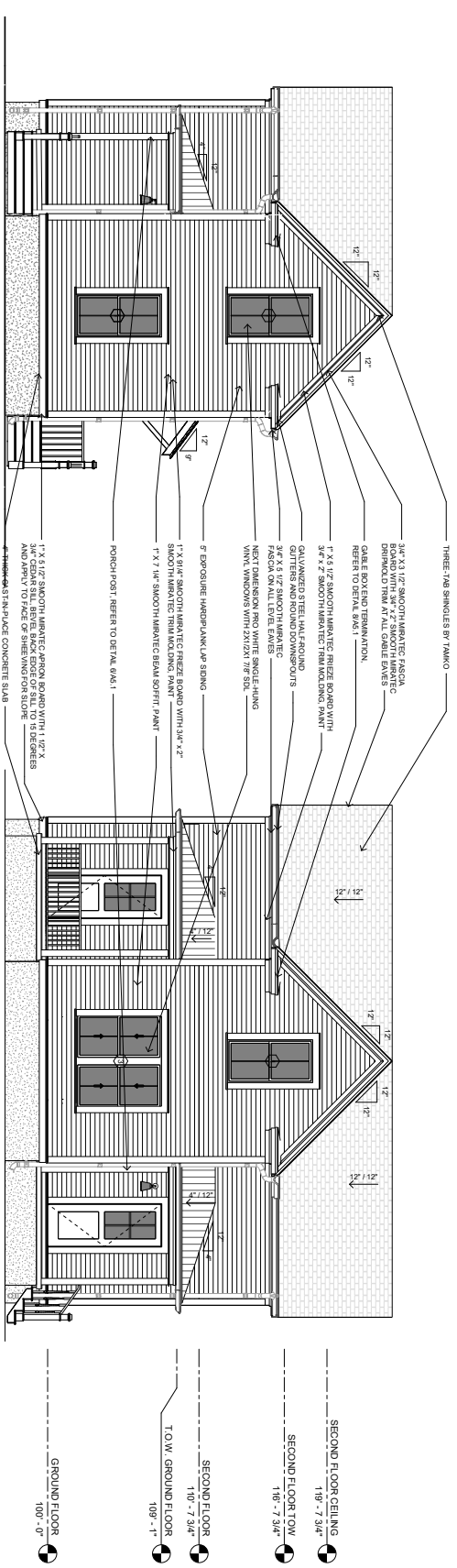


REVISION 0



3 LEFT ELEVATION

4 BACK ELEVATION



1 FRONT ELEVATION

2 RIGHT ELEVATION

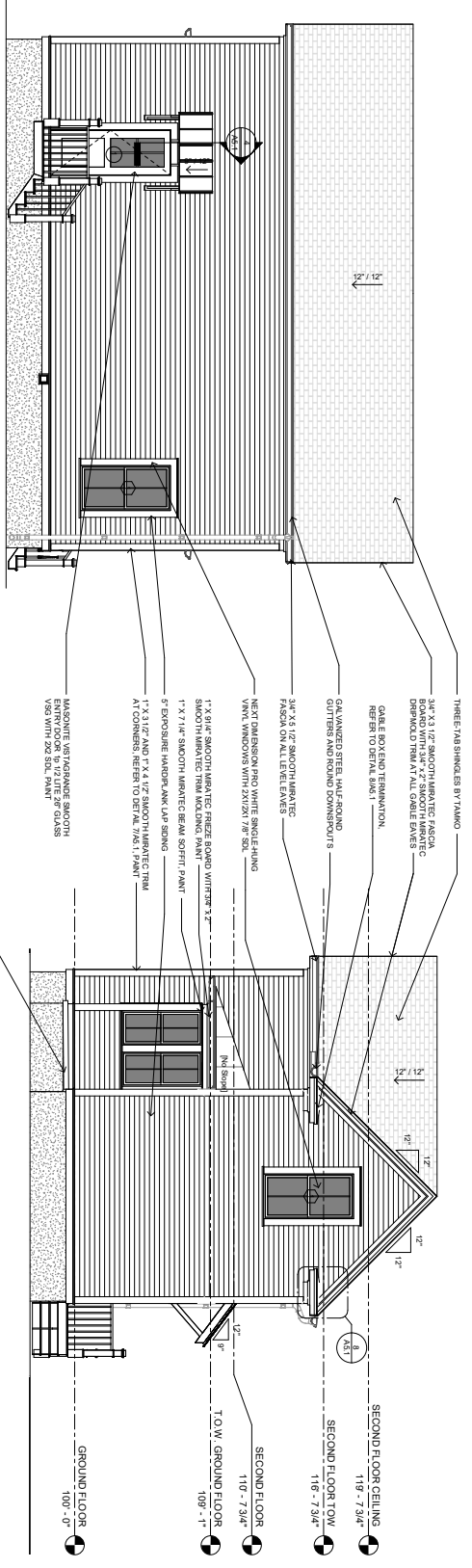
PROW HOUSE
ELEVATION 2R

ISSUED FOR
CONSTRUCTION

ENGINEER: BT
DRAWN BY: TK
DATE: 08/08/2022

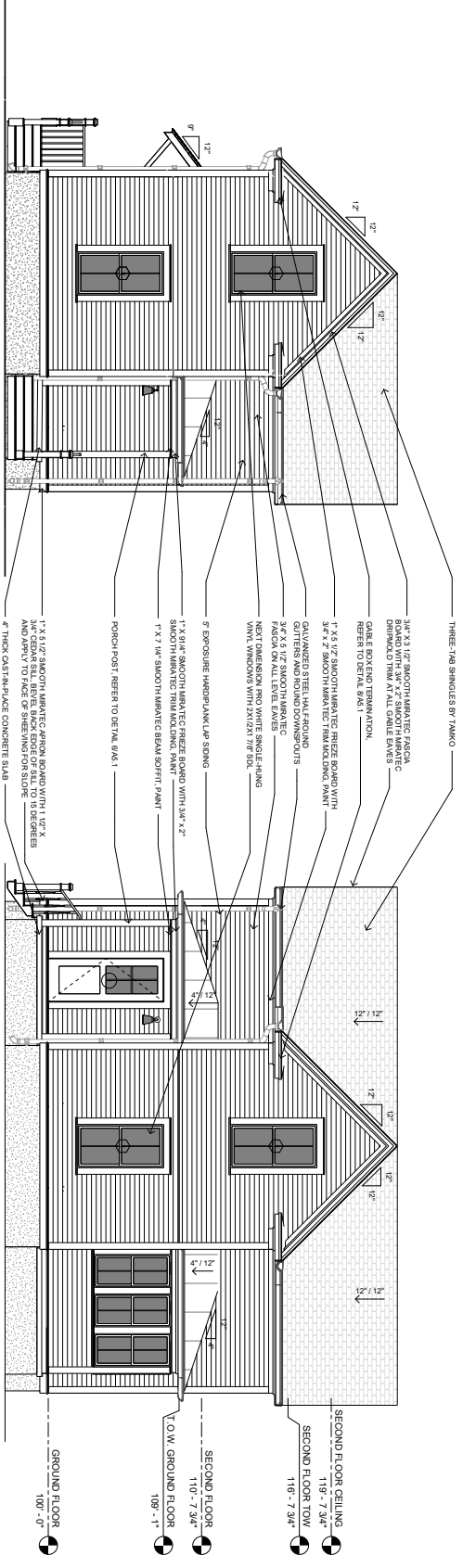
ELEVATIONS

SHEET A2.1



4 BACK ELEVATION
1/4" = 1'-0"

3 LEFT ELEVATION
1/4" = 1'-0"



2 RIGHT ELEVATION
1/4" = 1'-0"

1 FRONT ELEVATION
1/4" = 1'-0"

PROW HOUSE
ELEVATION 3L

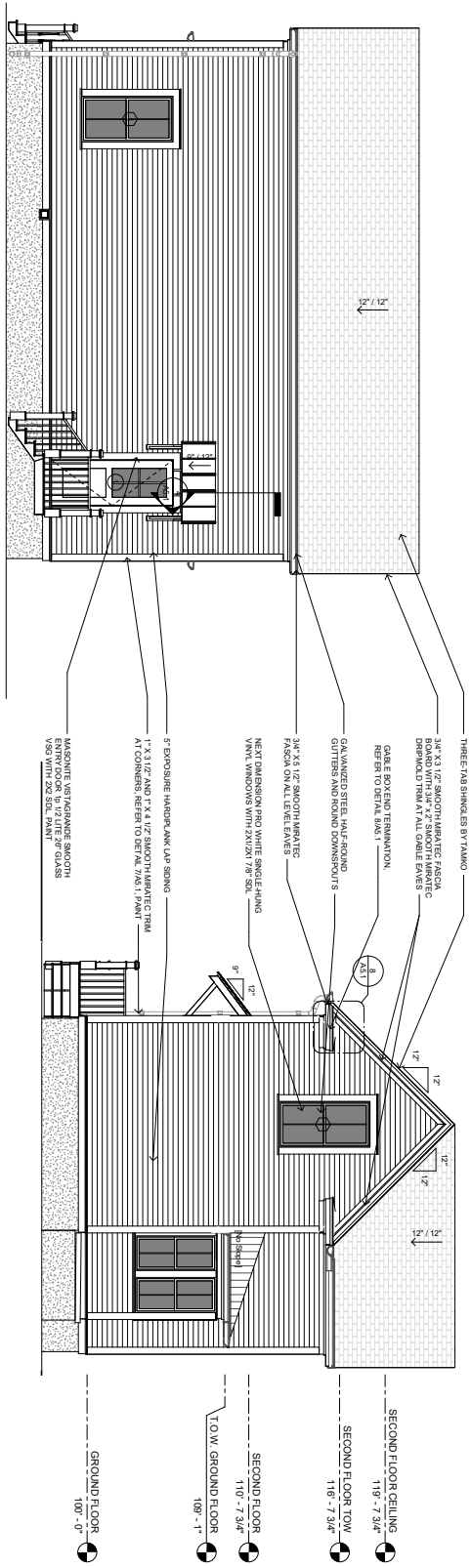
ISSUED FOR
CONSTRUCTION

ENGINEER: BT
DRAWN BY: TK
DATE: 08/06/2022

REVISION: 0

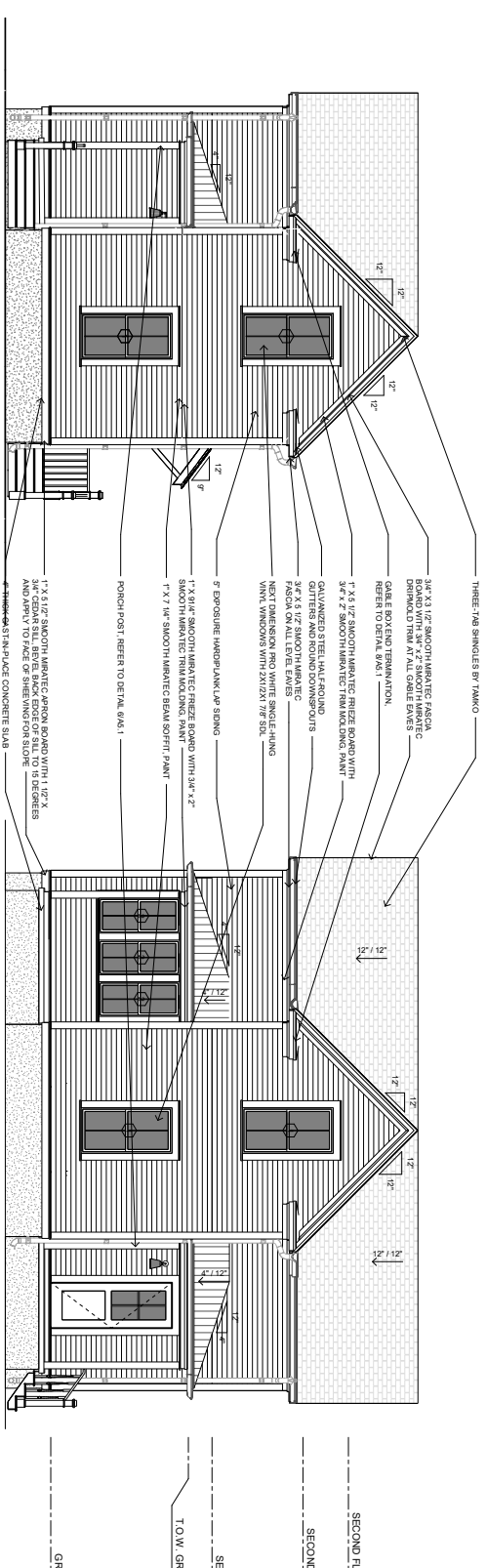
SHEET A2.1

ELEVATIONS



4 BACK ELEVATION
1/4" = 1'-0"

3 LEFT ELEVATION
1/4" = 1'-0"



2 RIGHT ELEVATION
1/4" = 1'-0"

1 FRONT ELEVATION
1/4" = 1'-0"



PROW HOUSE
ELEVATION 3R

ISSUED FOR
CONSTRUCTION

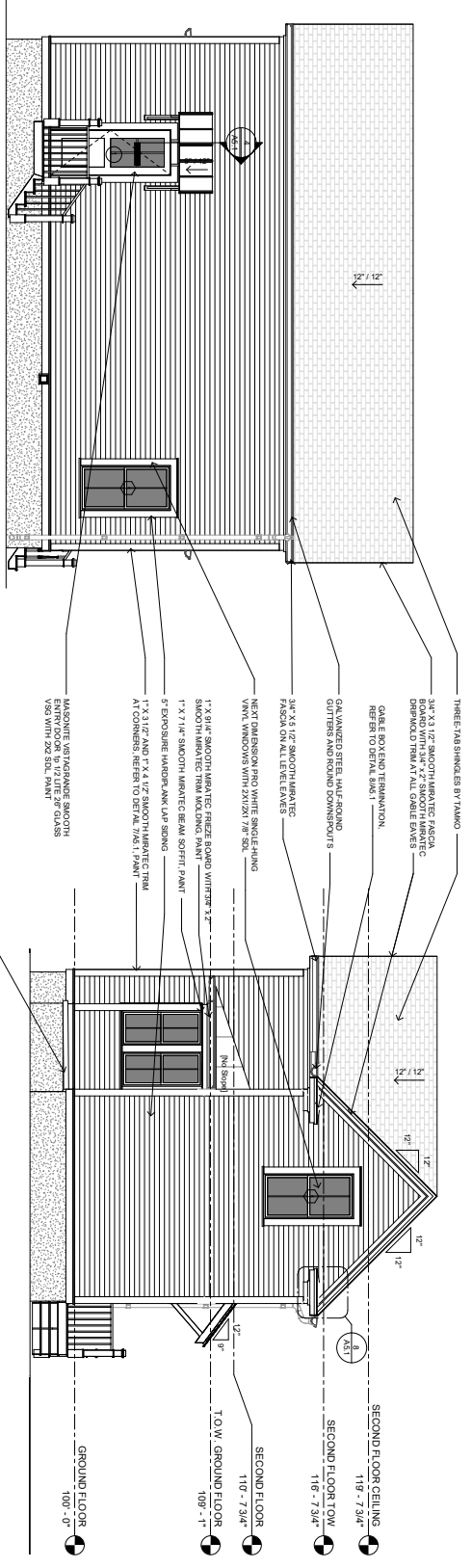
ENGINEER: BT
DRAWN BY: TK
DATE: 08/08/2022

ELEVATIONS

SHEET A2.1

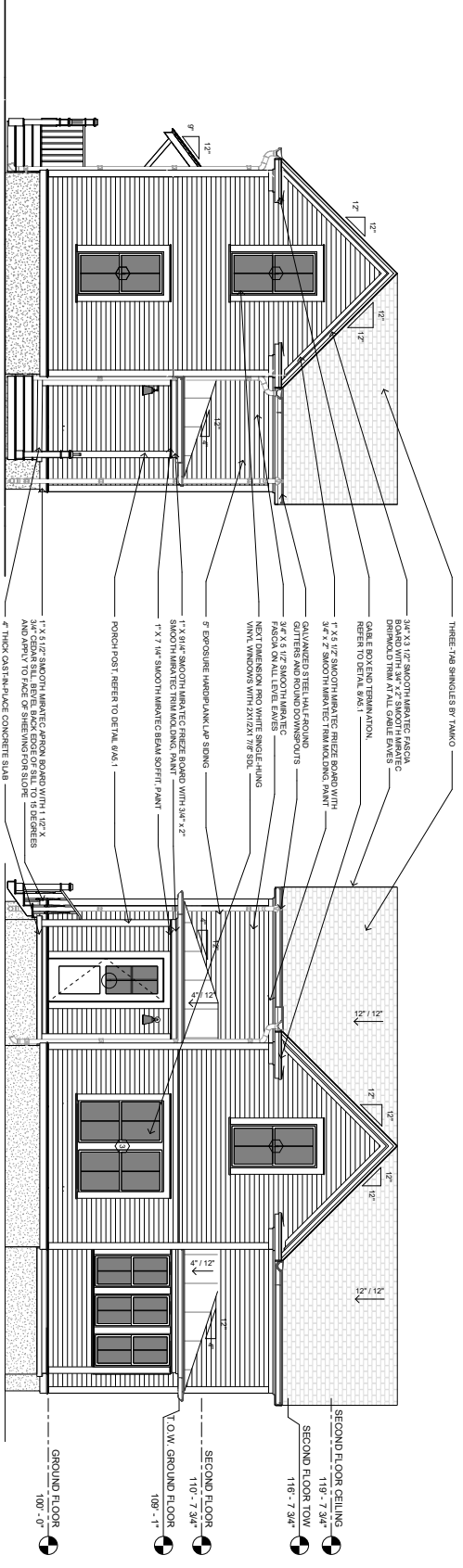


REVISION 0



4 BACK ELEVATION
1/4" = 1'-0"

3 LEFT ELEVATION
1/4" = 1'-0"



2 RIGHT ELEVATION
1/4" = 1'-0"

1 FRONT ELEVATION
1/4" = 1'-0"

PROW HOUSE
ELEVATION 4L

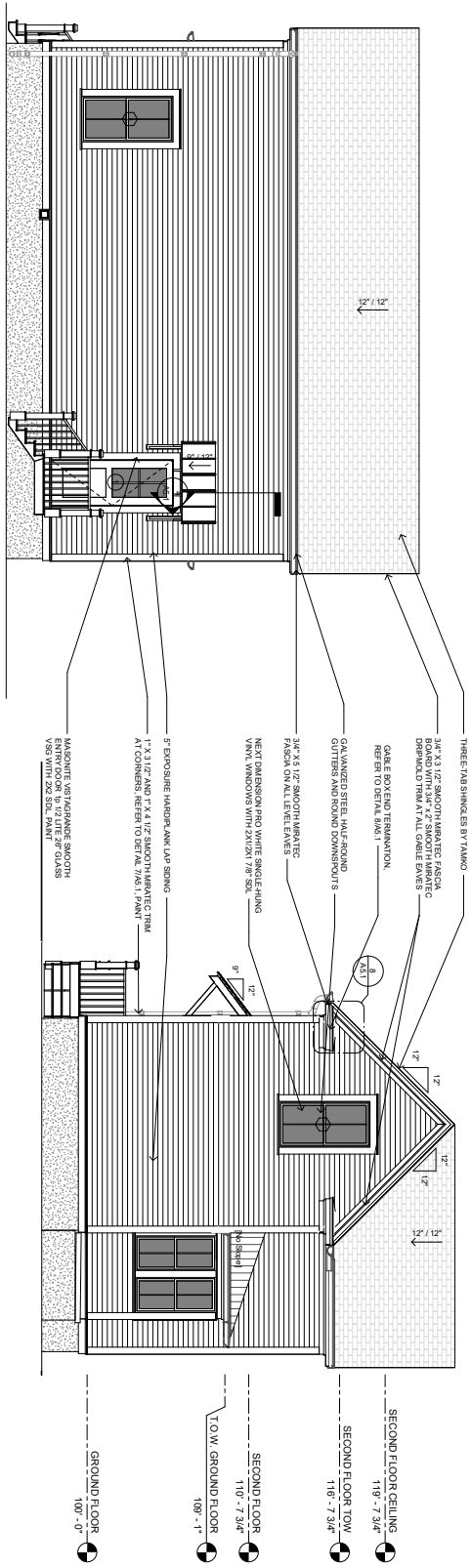
ISSUED FOR
CONSTRUCTION

ENGINEER: BT
DRAWN BY: TK
DATE: 08/06/2022

ELEVATIONS

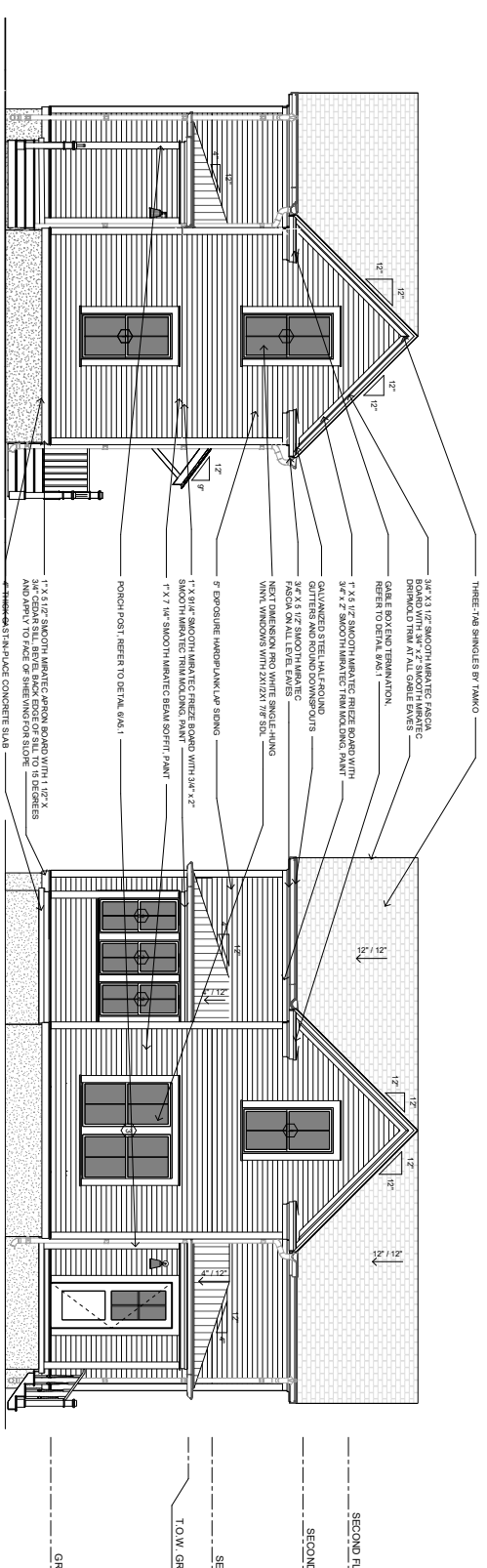
SHEET A2.1





4 BACK ELEVATION
1/4" = 1'-0"

3 LEFT ELEVATION
1/4" = 1'-0"



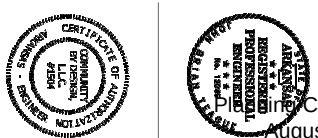
2 RIGHT ELEVATION
1/4" = 1'-0"

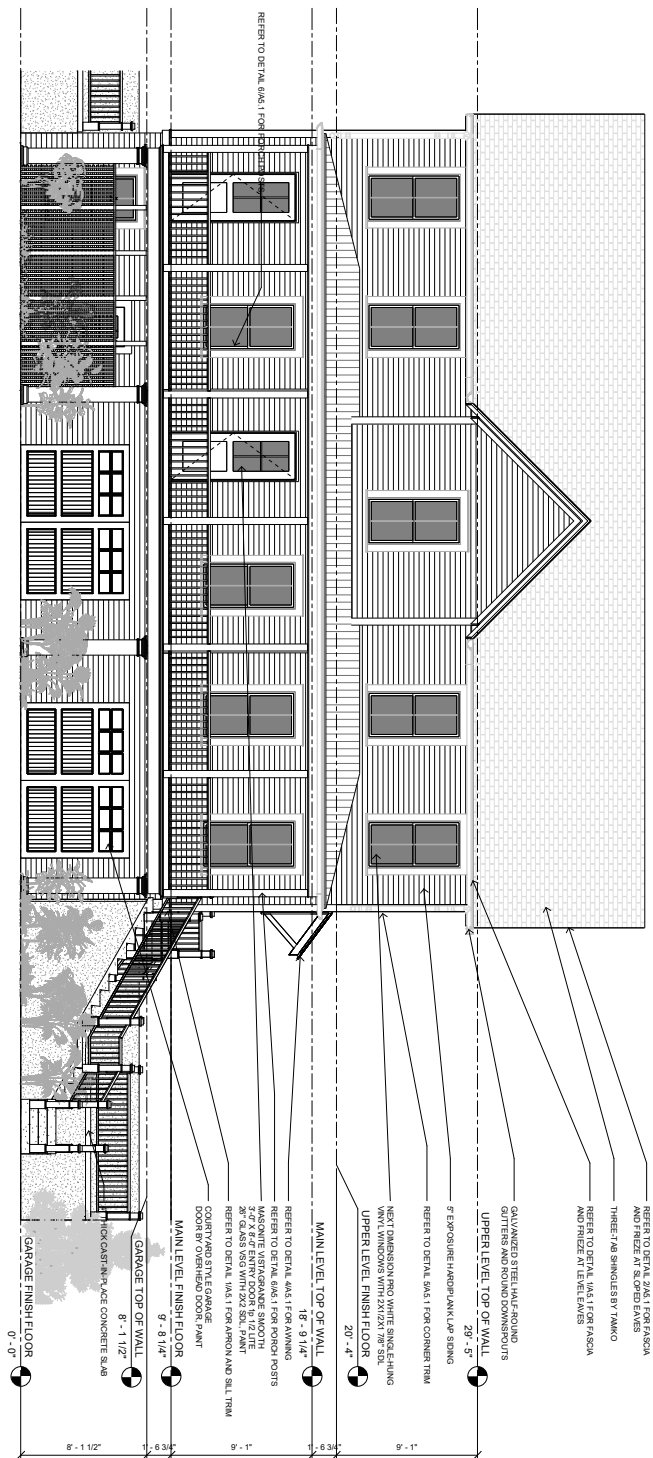
1 FRONT ELEVATION
1/4" = 1'-0"



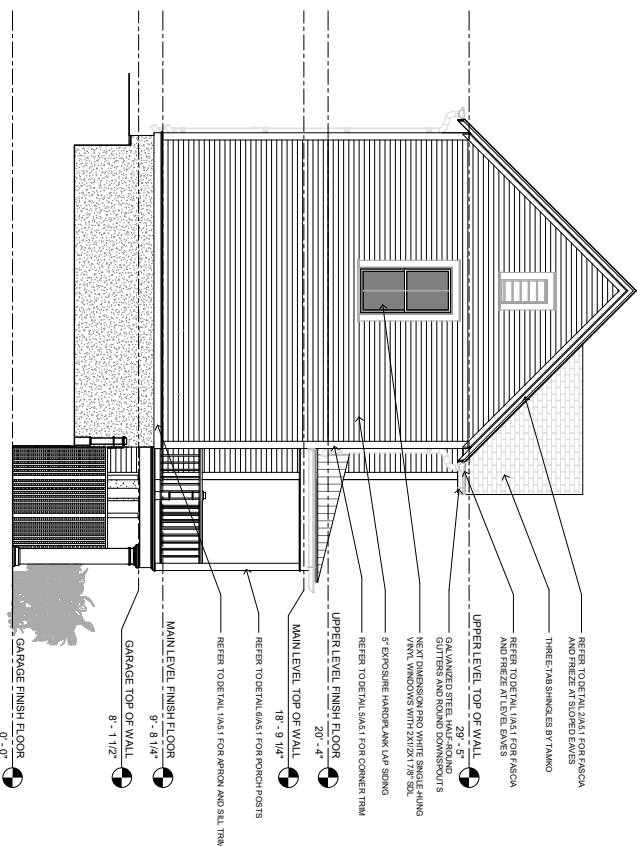
PROW HOUSE
ELEVATION 4R

ISSUED FOR CONSTRUCTION
ENGINEER: BT
DRAWN BY: TK
DATE: 08/08/2022
SHEET A2.1
ELEVATIONS





1 FRONT ELEVATION
1/8" = 1'-0"



2 RIGHT ELEVATION
1/8" = 1'-0"

PRO HOUSE
ELEVATION 5R

ISSUED FOR
CONSTRUCTION
ENGINEER: BT
DRAWN BY: TK
DATE: 07/20/2022

SHEET A2.1
ELEVATIONS





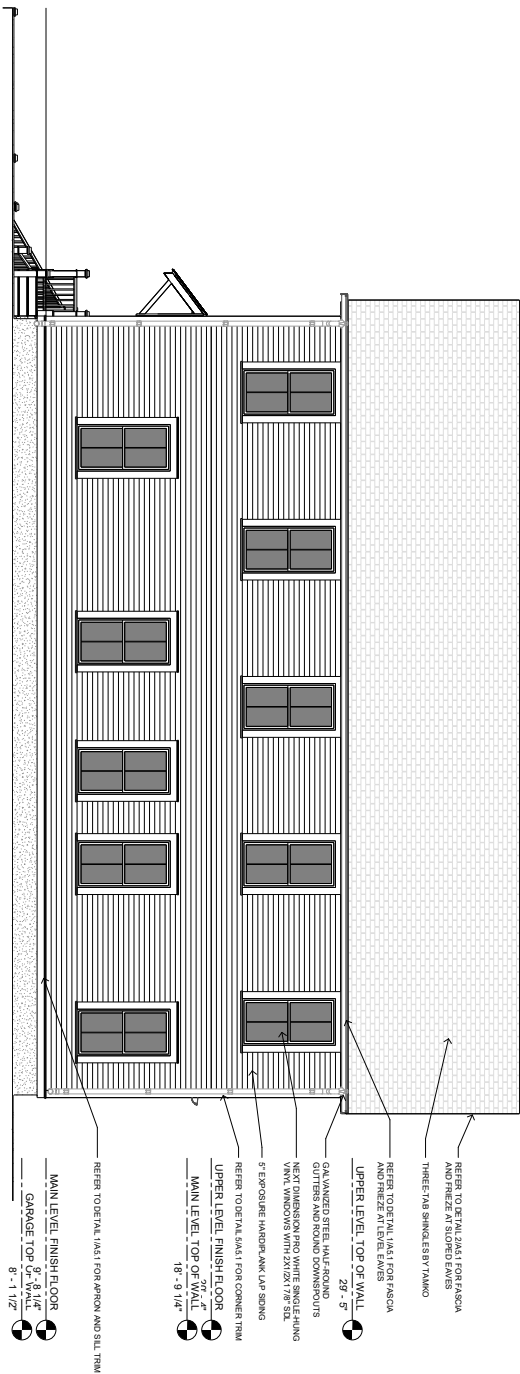
REVISION 0

PROW HOUSE
ELEVATION 5R

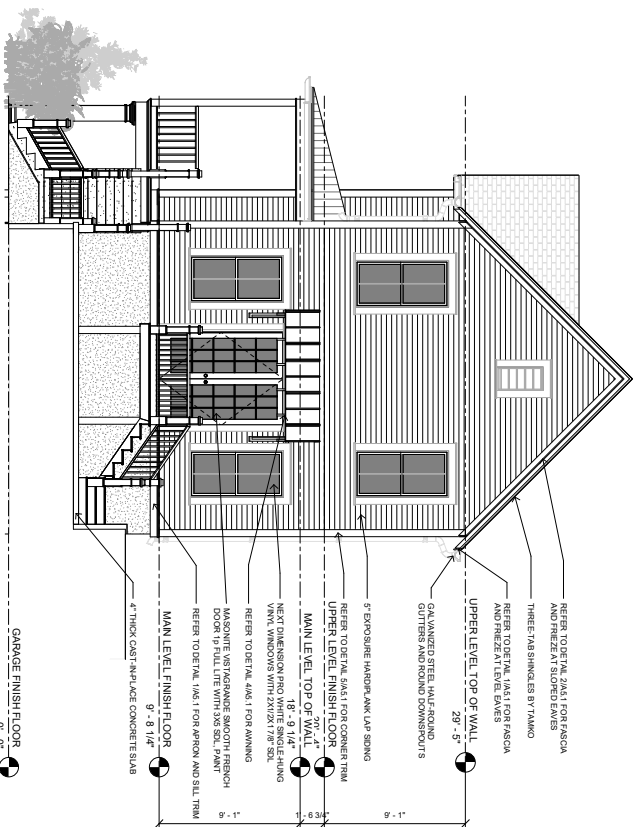
ISSUED FOR
CONSTRUCTION

ENGINEER: BT
DRAWN BY: TK
DATE: 07/20/2022

ELEVATIONS
SHEET A2.2



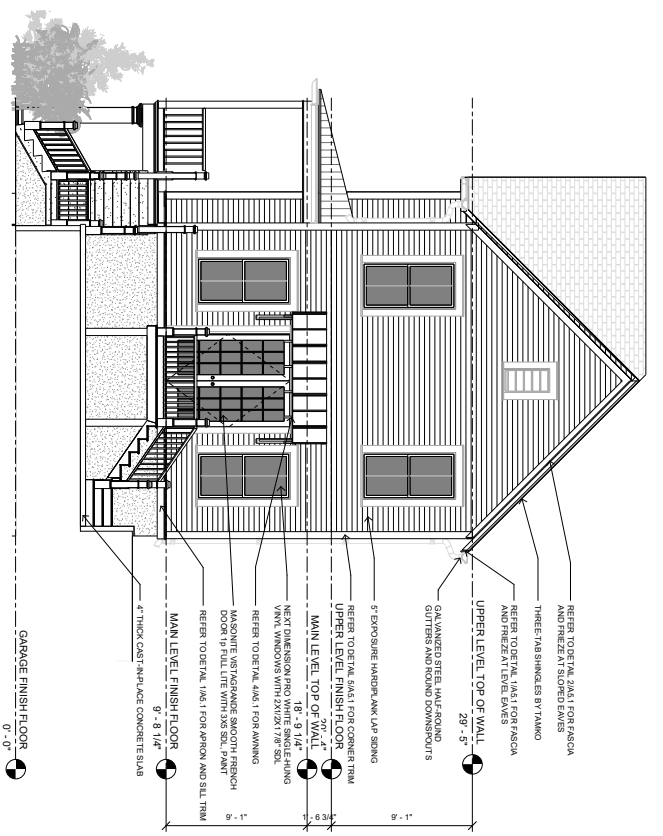
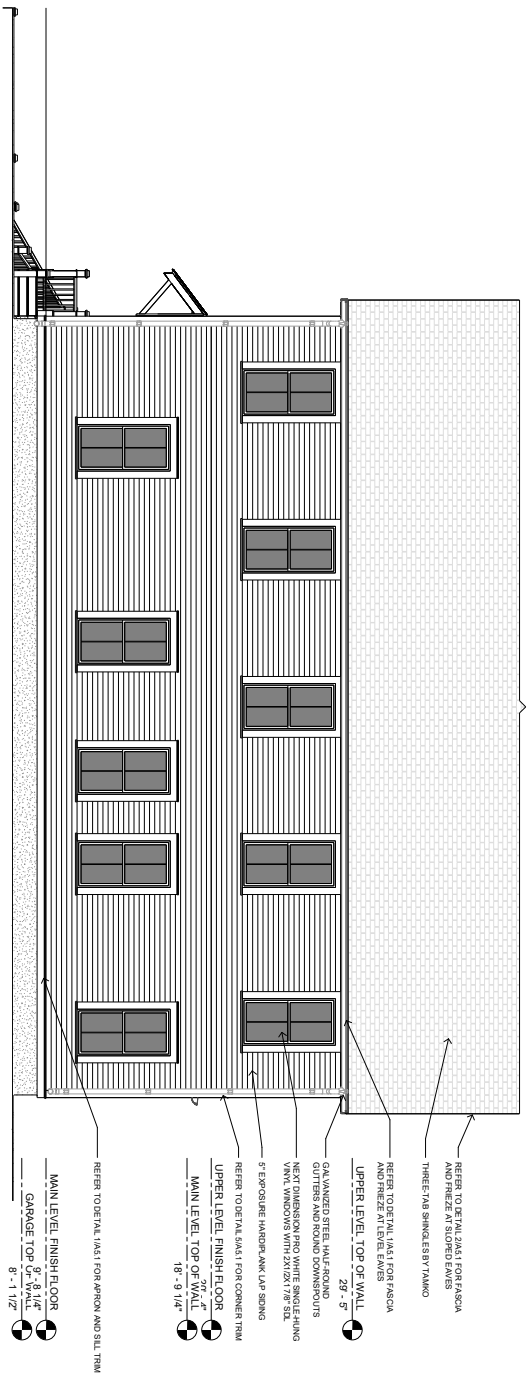
1 BACK ELEVATION
1/4" = 1'-0"



2 LEFT ELEVATION
1/4" = 1'-0"

 $1/4'' = 1'-0''$ $1/4'' = 1'-0''$

Page 76 of 88



PROW HOUSE
ELEVATION 6R

ISSUED FOR
CONSTRUCTION

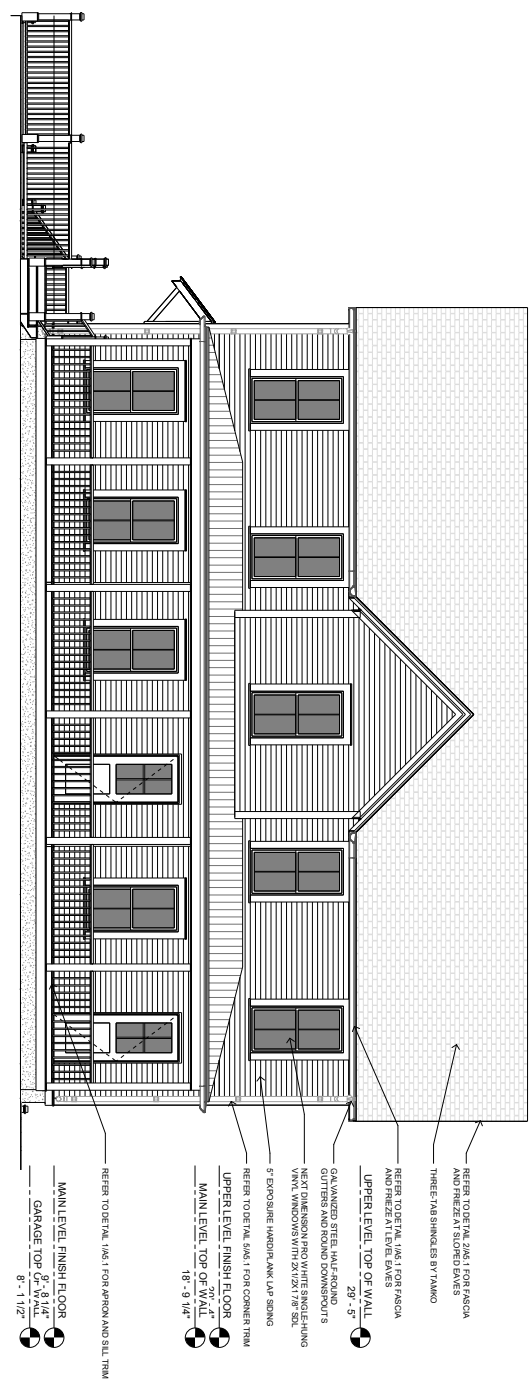
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DRAWN BY: TK
DATE: 07/20/2022

ELEVATIONS

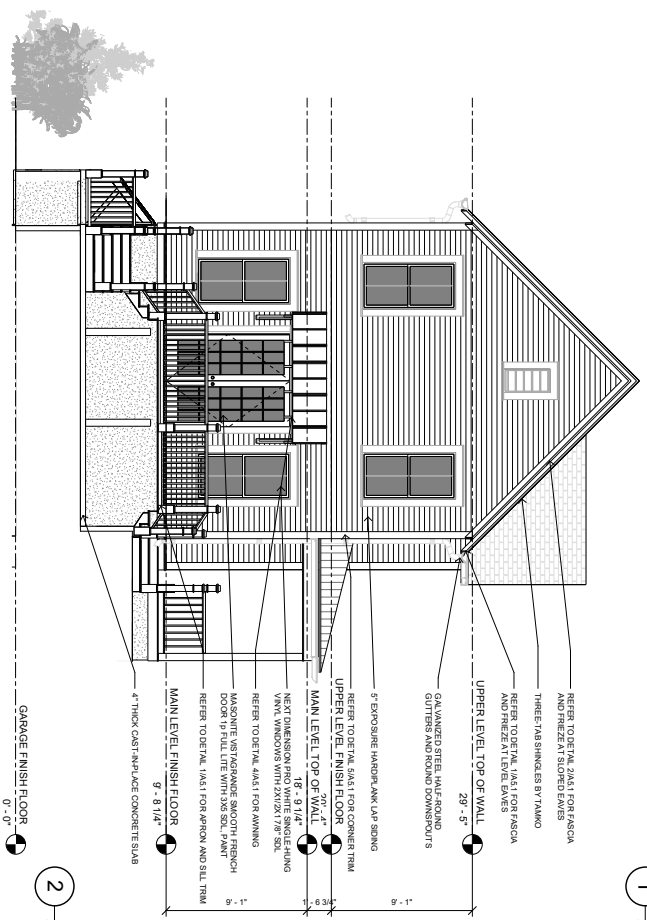
SHEET A2.2



REVISION 0



1 FRONT ELEVATION
1/4" = 1'-0"



2 LEFT ELEVATION
1/4" = 1'-0"

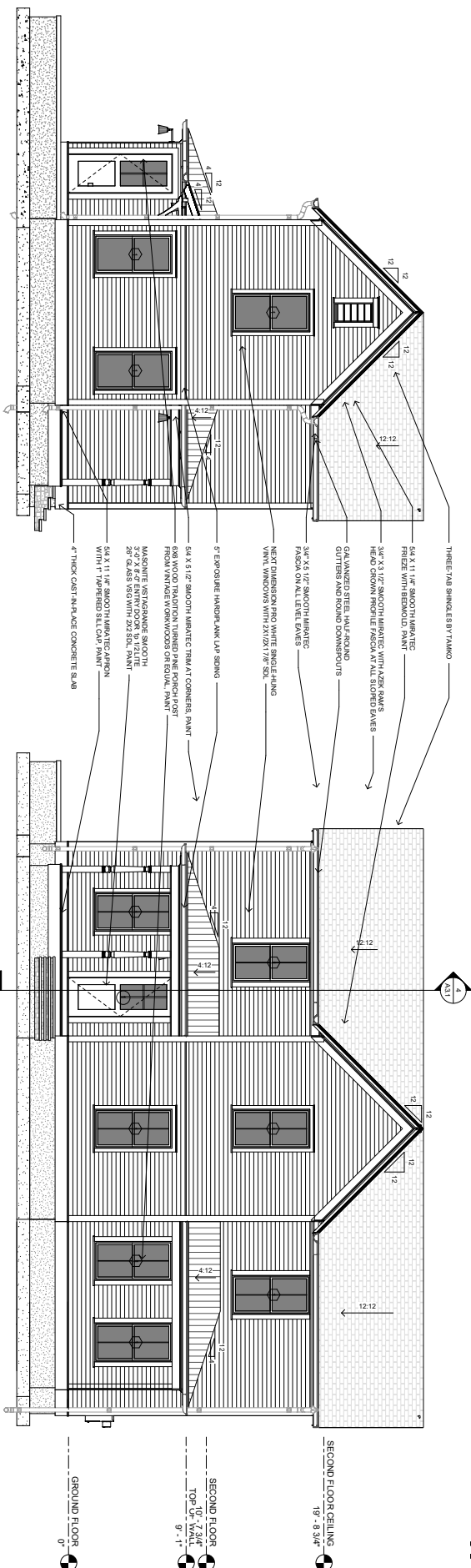
PROW HOUSE
ELEVATION 7L

ISSUED FOR
CONSTRUCTION

ENGINEER: BT
DRAWN BY: TK
DATE: 07/20/2022

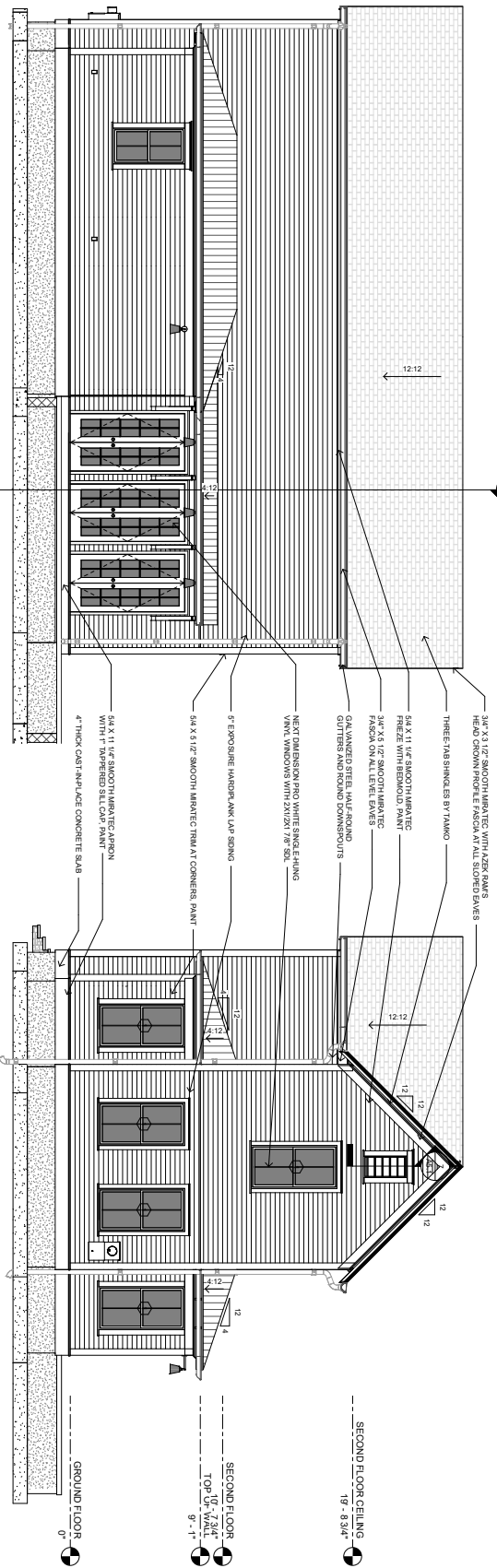
ELEVATIONS

SHEET A2.2



4 WEST ELEVATION

1 NORTH ELEVATION



3 SOUTH ELEVATION

2 EAST ELEVATION

PROW HOUSE
ELEVATION 8L

ISSUED FOR REVIEW

DRAWN BY: BK
DATE: 06/27/23

ELEVATIONS

SHEET A2.1

community development





REVISION 0

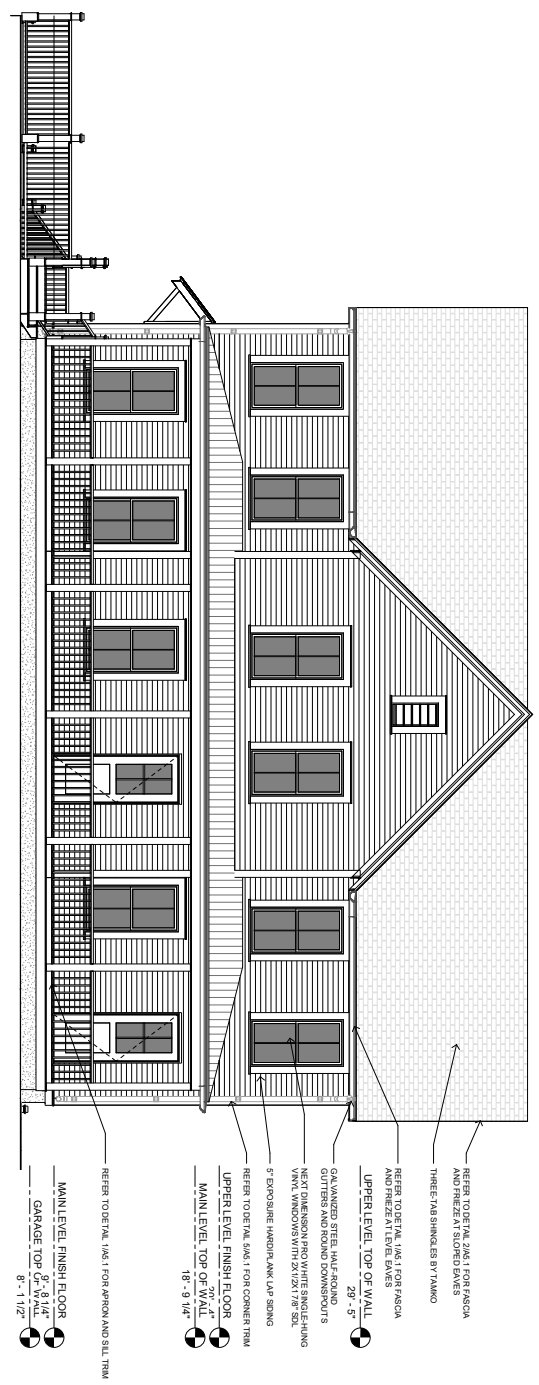
PROW HOUSE
ELEVATION 9L

ISSUED FOR REVIEW

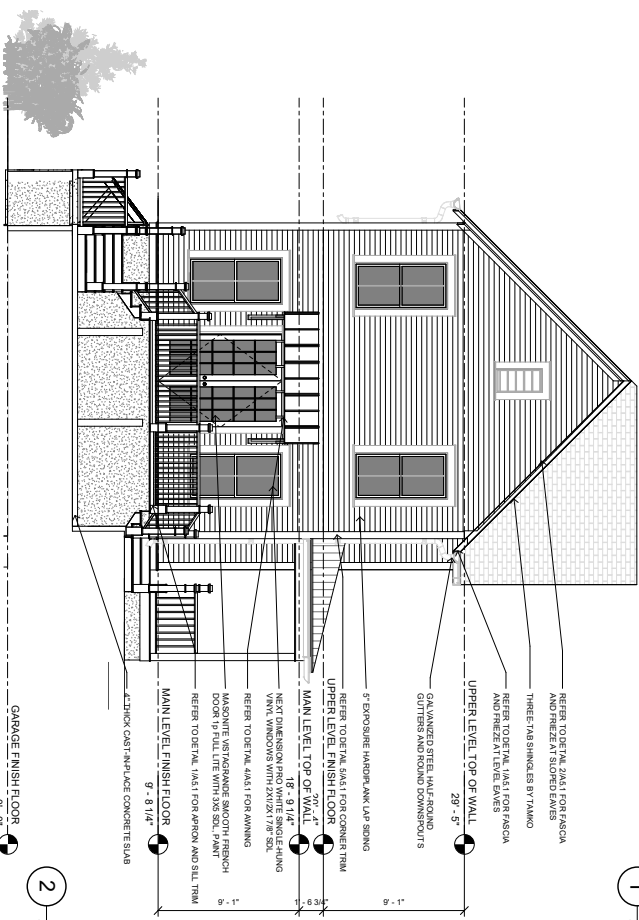
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DRAWN BY: TK
DATE: 07/20/2022

ELEVATIONS

SHEET A2.2

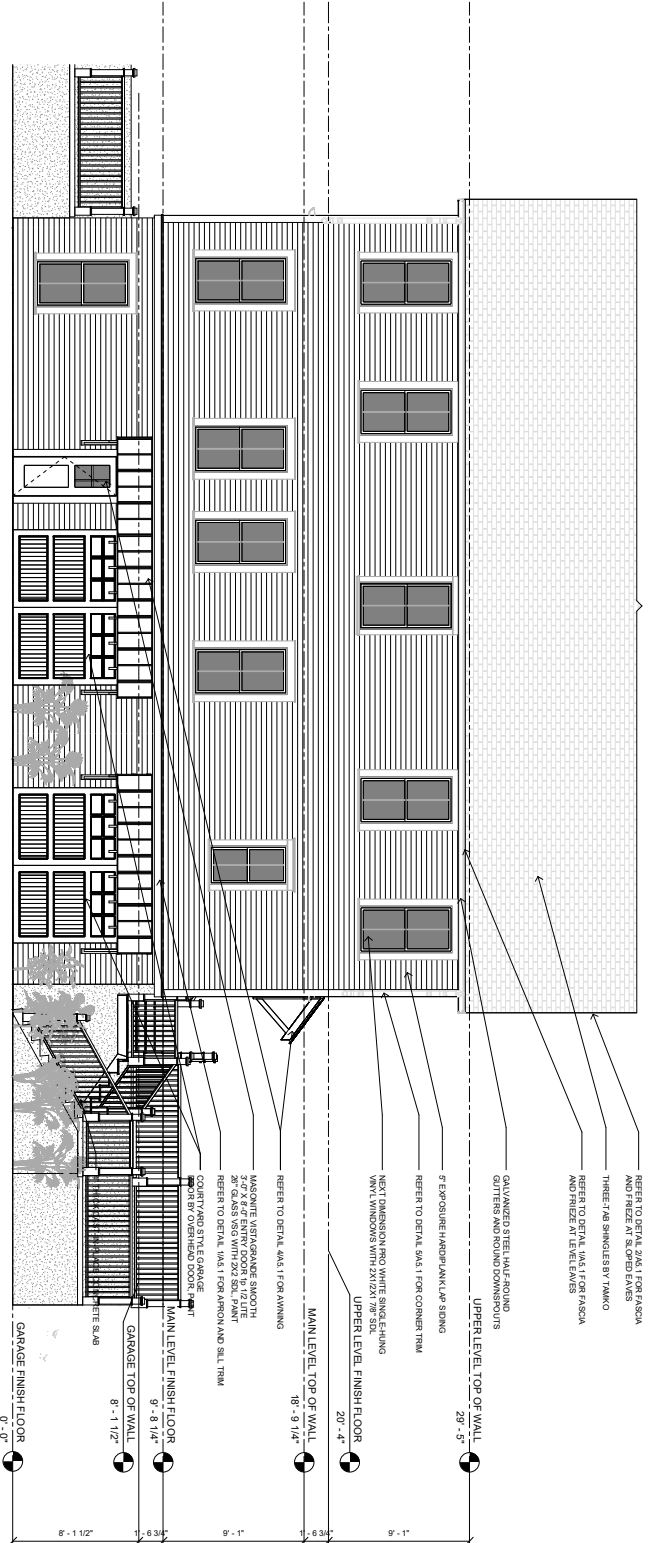


1 FRONT ELEVATION
1/4" = 1'-0"

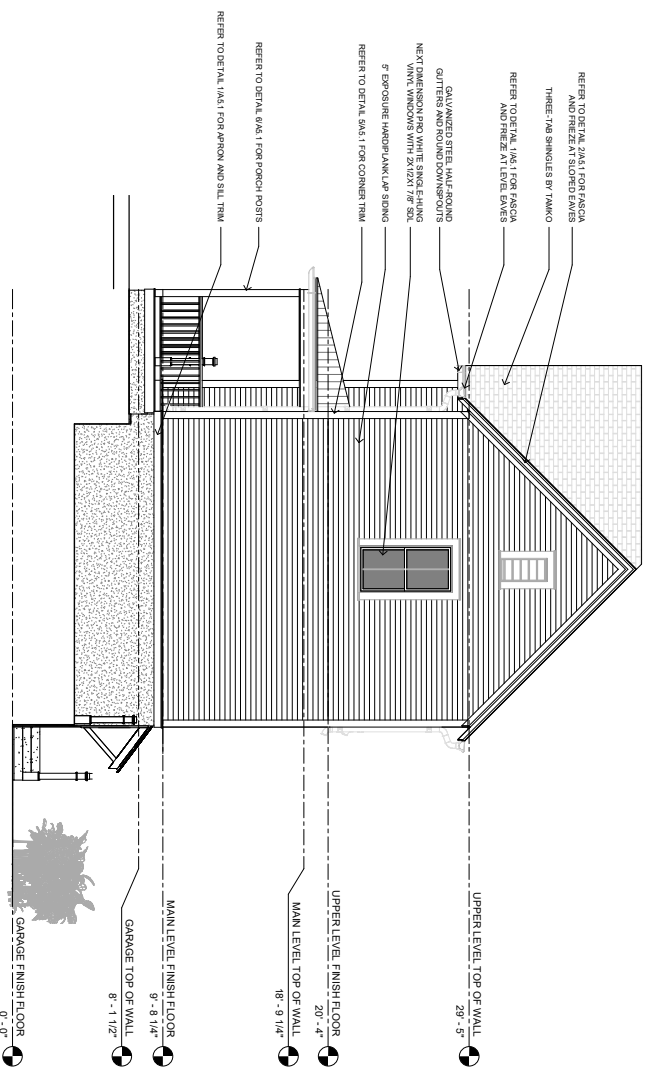


2 LEFT ELEVATION
1/4" = 1'-0"

GARAGE FINISH FLOOR
0'-0"



1 REAR ELEVATION
1/4" = 1'-0"



2 RIGHT ELEVATION
1/4" = 1'-0"

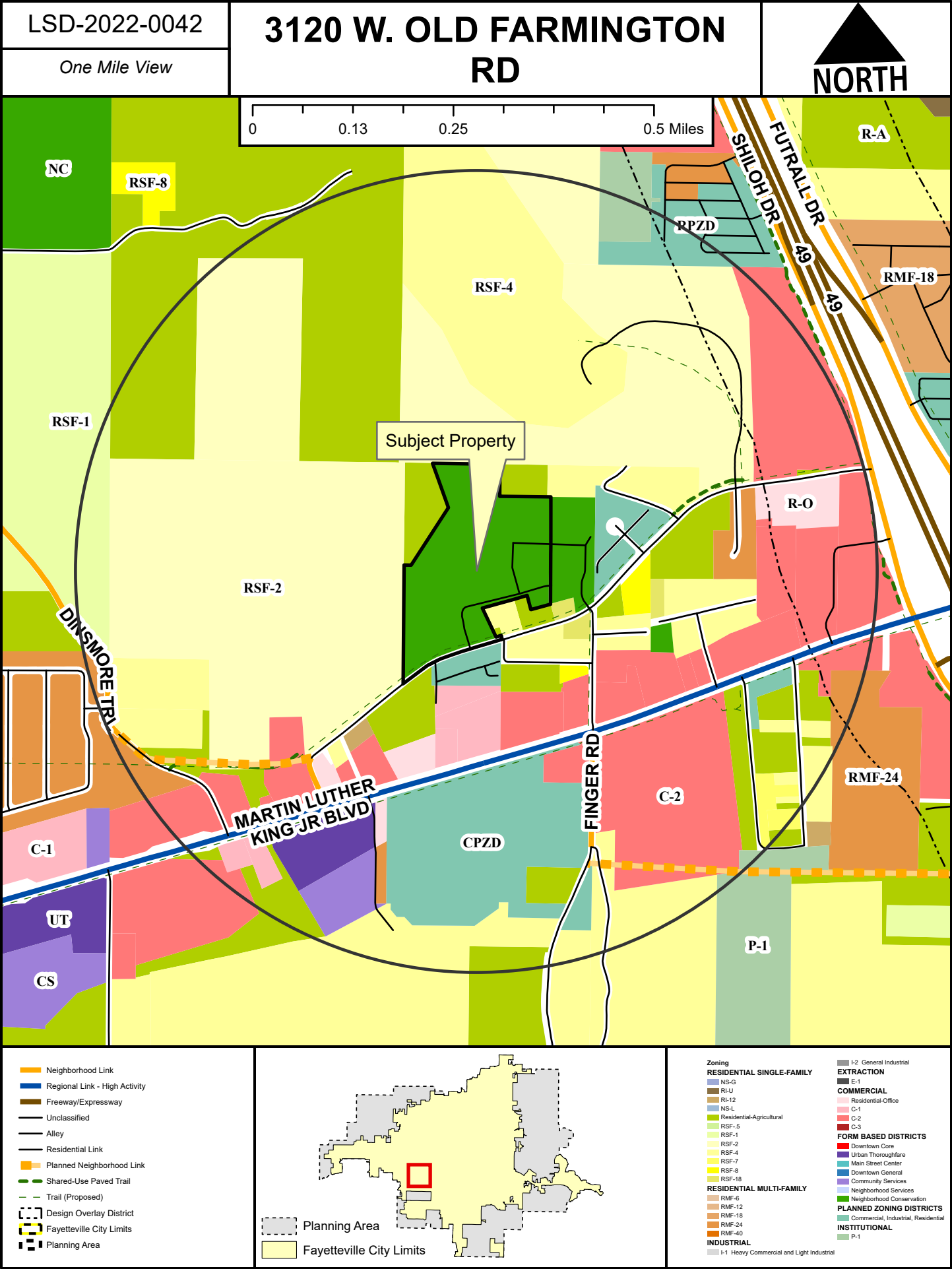
PROW HOUSE
ELEVATION 9L

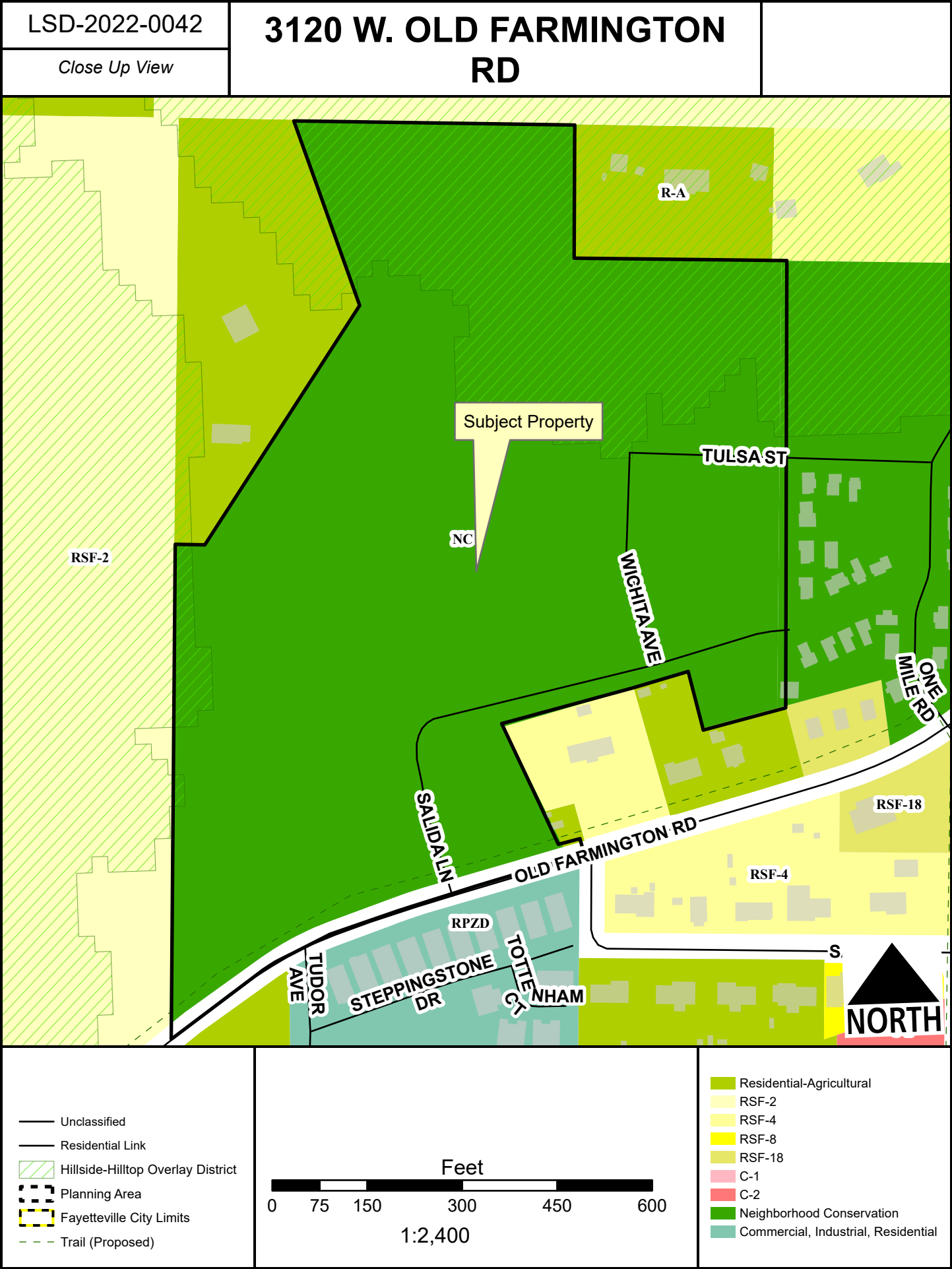
ISSUED FOR REVIEW

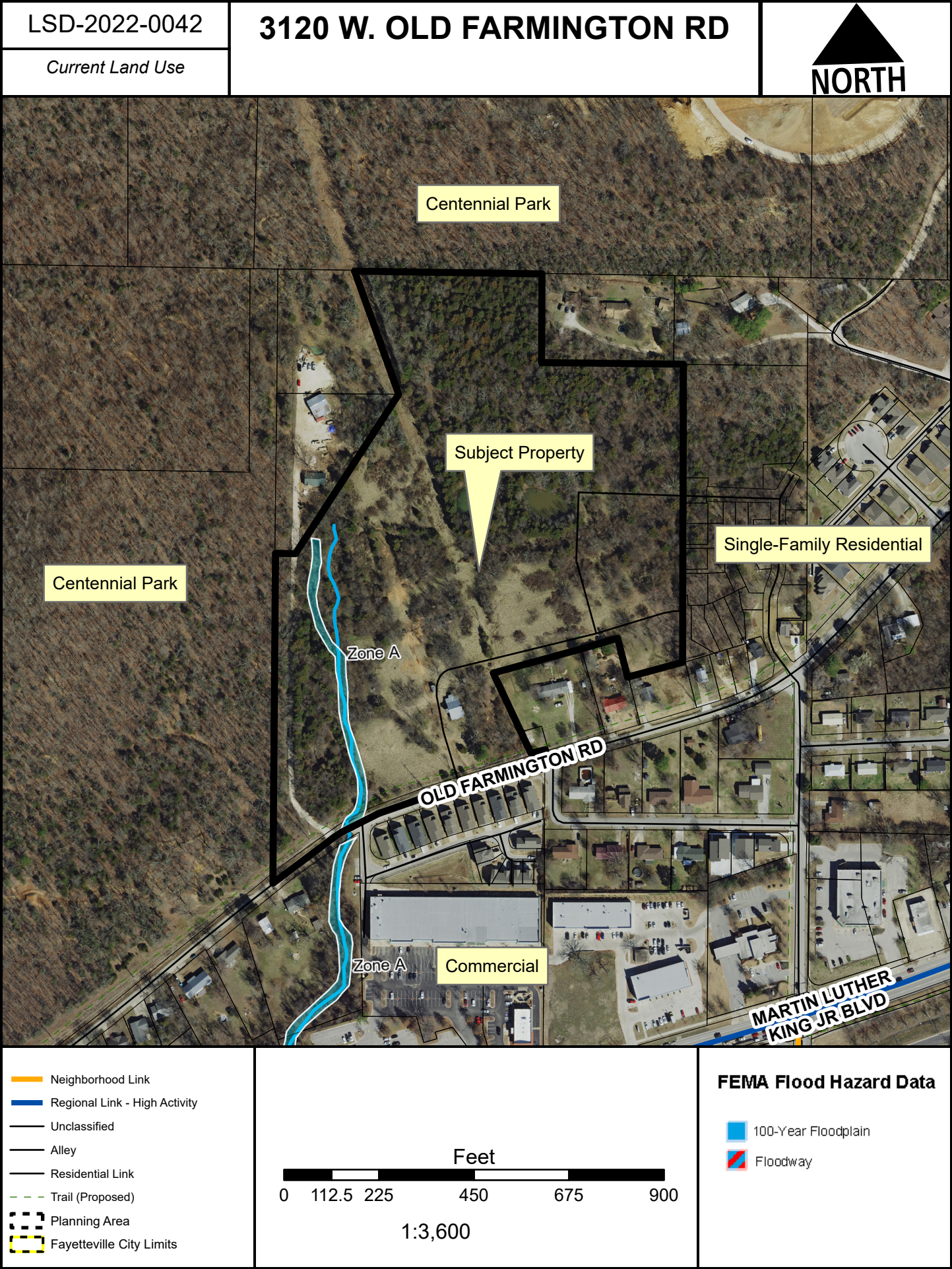
DESIGNER: BT
DRAWN BY: TK
DATE: 07/20/2023

ELEVATIONS

SHEET A2.2A









TO: Fayetteville Planning Commission

FROM: Long Range Planning Committee
Britin Bostick, Long Range Planning/Special Projects Manager

MEETING DATE: August 14, 2023

SUBJECT: **ADM-2023-0032: Administrative Item (PLANNING COMMISSION RULES OF ORDER AND PROCEDURE):** Submitted by City Staff. The request is to amend the Planning Commission Rules of Order and Procedure to limit applicant presentations to ten minutes.

RECOMMENDATION:
Staff recommends approval of ADM-2023-0032.

RECOMMENDED MOTION:
"I move to approve **ADM-2023-0032.**"

BACKGROUND:
At their July 20, 2023 meeting the Long Range Planning Committee discussed an amendment to the Planning Commission Bylaws regarding the length of applicant presentations. Commissioner Brink brought the item forward to limit applicant presentations to ten minutes unless additional time is granted by the Commission, similar to and borrowing language from the time limit established in the Fayetteville City Council's Rules of Order and Procedure. The proposed amendment adds language in Section A.7.b.(1) to describe the ten-minute time limit and process for granting more time. The item was requested to be placed on the next regular meeting agenda.

PLANNING COMMISSION ACTION:				Required	<u>YES</u>
Date: <u>August 14, 2023</u>	☐ Tabled	☐ Approved	☐ Denied		
Motion:					
Second:					
Vote:					

BUDGET/STAFF IMPACT:
None

Attachments:

- Amended Planning Commission Rules of Order and Procedure Section A.7.b.(1) – Strikethrough
- Amended Planning Commission Rules of Order and Procedure Section A.7.b.(1) – Clean

RULES OF ORDER AND PROCEDURE OF THE FAYETTEVILLE PLANNING COMMISSION

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4. Virtual Planning Commission Meetings Authorized

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The City will go further than legally required in order to inform citizens of the items to be considered by the Planning Commission. The means used may include press releases or advertisements in a local newspaper, special notice to citizens who have shown a direct interest in matters to be considered, Government Channel announcements and presentation, and agenda copies available at Planning Commission meetings

7. Presentation of Agenda Items at Planning Commission Meetings

a. **Consent Agenda.** Consent Agenda items shall be read by the Chair and voted upon as a group without discussion by the Planning Commission. If a Planning Commission Member wishes to comment upon or discuss a Consent Agenda item, that item shall be removed and considered immediately after the Consent Agenda has been voted upon.

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(1) **Presentations by Staff and Applicants.** Agenda items at a Planning Commission meeting shall be introduced by the Chair. City staff shall then present a report. An agenda applicant (person seeking vacation or variance, rezoning or development applicant, etc.) may present its proposal only during this presentation period, but may be recalled by a Planning Commission Member later to answer questions. City staff and applicants may use electronic visual aids in the Planning Commission meeting as part of the presentation of the agenda item. An Applicant's presentation whether presented by one or more than one presenter shall each be limited to a maximum of ten (10) minutes unless the Planning Commission by unanimous consent or majority vote allows additional time.

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If a commissioner is called to order while he or she is speaking, the commissioner shall cease speaking immediately until the question of order is determined. If ruled to be not in order, the commissioner shall remain silent or shall alter his or her remark so as to comply with those rules.

3. Financial Interest

No member of the Planning Commission with a direct or indirect financial interest in any items before the Planning Commission shall participate in the discussion of or voting on such matter.

4. Voting

Every member present when a question is put to a vote shall vote either "yes" or "no", except that a member may abstain from voting if he or she has not participated in the preceding discussion of the question and if that member has previously stated the reason for the abstention. Except for a question necessary to clarify the meaning of the motion being voted upon, no questions or comments by members of the Planning Commission including the Chair shall be made during the voting on the pending motion. The Planning Commission will vote at the Planning Commission meetings in the order they are called, but with a progressively different position voting first at each meeting.

5. Roll Call

Upon every vote the affirmative and negative votes shall be called and shall be recorded on every motion, however, items which may be approved by motion, may be grouped together and approved simultaneously with one roll call, under a Consent Agenda.

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1. Agenda

All items for discussion or action at the regular Planning Commission meeting shall be included in a Tentative Agenda provided to Planning Commission prior to an Agenda Session where the Planning Commission shall determine the final arrangement of the Agenda. At the regular meeting of the Planning Commission, the Planning Commission, by majority vote, may rearrange the order of the Agenda.

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The Planning Commission shall follow the precedence and classification of motions as given in the most recent edition of the Arkansas Municipal League's *Procedural Rules for Arkansas Municipal Officials*. In the event a matter is not covered by the *Procedural Rules for Arkansas Municipal Officials*, the most recent edition of Robert's Rules of Order shall apply. On questions of appeal, a majority of those present is required to overturn a ruling by the chair.

3. Motions to be Stated by the Chair/Withdrawal

When a motion is made and seconded, it shall be stated by the Chair before debate. After being stated by the Chair, a motion may not be withdrawn by the mover without the consent of the member seconding it.

4. Reconsideration

After the decision of any question, any member of the prevailing side may request a reconsideration of any action at the same or the next succeeding meeting. A motion to reconsider requires a simple majority for passage. After a motion for reconsideration has once been acted on, no other motion for reconsideration thereof shall be made without unanimous consent.

5. Items Tabled Indefinitely

Any item tabled indefinitely may be taken from the table by majority vote of the Planning Commission during the calendar year in which it was tabled indefinitely. All items tabled indefinitely and remaining on the table at the end of the calendar year shall be deemed denied and rejected for appellate and all other purposes on December 31st and shall not be considered by the Planning Commission in the future unless brought forward as a new item.

D. OFFICERS

1. Nominations and Elections

The Chair shall appoint three (3) members from the Planning Commission to serve as a nominating committee for the positions of Chair, Vice-chair and Secretary. The nominating committee shall present its slate to the Planning Commission who shall elect the Chair, Vice-chair and Secretary annually no later than the first regular meeting in the month of April. An officer of the Planning Commission may serve in any one position for no more than two consecutive terms.

2. Powers of the Chair

The Chair shall preside at all meetings and public hearings of the Planning Commission and shall decide all points of order or procedure. All plans, plats, etc., requiring the signature of the Planning Commission shall be signed by the Chair, Vice-chair or the Secretary; when authorized by the Planning Commission. These officers or any of them shall sign all other documents on behalf of the Commission.

3. Vice-Chair

The Vice-chair shall assume the duties of the Chair in the Chair's absence. In the event of the absence or disability of both the Chair and Vice-chair at any meeting, the Secretary shall assume the duties of the Chair. The longest serving commissioner shall act as Chair if no officer is present during such meeting. Should any unusual circumstance prevent the election of officers at the regular annual meeting, officers shall serve until their successors are elected.

4. Removal from Office

An Officer may be removed from their position with a two-thirds affirmative vote of all currently appointed Planning Commission members. A motion to remove an officer may be made at any regularly scheduled Commission meeting or Special Session of the Planning Commission and need not be placed on the agenda prior to the meeting. The vote shall be taken in the same manner as described in Section B.4.

5. Replacement of Officers

The Commission may fill a permanent Officer vacancy as soon as the next regularly scheduled Commission meeting or Special Session. An Officer vacancy may be filled with a majority affirmative vote of all commissioners present.

E. COMMITTEES

1. Special Committees

The Planning Commission may establish such standing, special or advisory committees as it deems advisable, and may assign to each committee specific duties or functions and establish the terms of members of each such committee. Members of such committees may be persons other than members of the Planning Commission, but a member of the Planning Commission shall be named as chair, either active or ex-officio, of each such committee.

2. Appointments by Chair

The Chair of the Planning Commission shall name the chair and members of each such committee subject to approval of the Planning Commission and any vacancies on such committee shall be filled in the same manner.

3. Subdivision Committee

A Subdivision Committee consisting of at least three Planning Commissioners shall serve as a standing committee that reviews development items after Technical Plat Review and makes recommendations to the Planning Commission. The Chair shall designate three (3) teams of three (3) Planning Commissioners to alternate as Subdivision Committee members, along with a chair of each Subdivision Committee. All members of the Planning Commission shall be eligible as alternates who shall sit with full voting rights in lieu of a regular member or members who are absent from the meeting. The Chair shall designate the order of alternates.

- a. The Subdivision Committee shall approve, disapprove, refer back to the developer for more information, or refer to the Planning Commission development items.
- b. A unanimous vote of the Subdivision Committee is required for final approval of a Large Scale Development. An applicant has the right to have a rehearing before the full Planning Commission.
- c. No development item can receive final approval at Subdivision Committee level if waivers or variances are being sought. Any development with a waiver or variance request must be forwarded to the Planning Commission. All preliminary plats shall be referred to the Planning Commission for action.

- d. In order to conduct the business of the Subdivision Committee, at least one (1) member shall be present. No item may be approved, however, unless at least two members present vote in favor of the request. Should two or more members of the committee abstain from an item or be absent, the item shall be forwarded for consideration by the Planning Commission. Should two members of the Subdivision Committee not agree on the recommended action for an item, the item shall be automatically forwarded to the full Planning Commission for consideration.

4. Long Range Planning Committee

A Long Range Planning Committee consisting of all nine Planning Commissioners shall be a standing committee of the Fayetteville Planning Commission. The Chair of the Planning Commission shall designate a chair of the Long Range Planning Committee. All members of the Planning Commission shall have full voting rights.

- a. The Long Range Planning Committee may review master plans and amendments, Unified Development Code amendments, and planning project items as well as planning and development initiatives and make recommendations to the Planning Commission.
- b. The Long Range Planning Committee shall meet after the second agenda session of each month, or at such other times designated by the Chair of the Long Range Planning Committee provided sufficient time is available to meet public notification requirements.
- c. In order to conduct the business of the Long Range Planning Committee, at least three (3) members shall be present. No motion to recommend an item may be approved, however, unless a simple majority of Commissioners present vote in favor of making a recommendation to the Planning Commission.
- d. Items may be placed on the Long Range Planning Committee agenda by the Chair, by any of the Commissioners, or by Staff. Requests for agenda additions must be made with sufficient time to meet public notification requirements.
- e. Items recommended to the Planning Commission for consideration may include, but are not limited to, proposed new master plans or amendments to existing master plans, proposed amendments to the Unified Development Code, proposed City-initiated rezonings, or other administrative items. The recommendations on such items may be for approval, disapproval, or recommendation of approval with revisions. Motions to make a recommendation on items do not require a roll call vote, but a roll call vote may be taken at the request of any Commissioner.
- f. The Long Range Planning Committee may seek consultation on general issues or specific initiatives. Consulted parties may have knowledge or experience including but not limited to former Planning Commissioners, planning professionals, architects, engineers, and other design professionals or persons knowledgeable on the topic being considered.

F. AMENDMENTS

These Rules of Order and Procedure may be amended or repealed by an affirmative vote of not less than a majority of the full membership of the Planning Commission. Any proposed amendment shall first be presented in writing at a regular meeting and placed on the agenda of a subsequent regular meeting for action unless ten (10) days' written notice of the proposal has been given to all Commissioners, in which case action may be taken at any regular or called meeting. However, an amendment may be made without notice if passed by a unanimous vote.

Revised and adopted by the Planning Commission of the City of Fayetteville, Arkansas, on the 148th day of August, 20232.

APPROVED:

ATTEST:

Sarah Sparkman
Chair

~~Quintin Canada~~Mary McGetrick
Secretary

**RULES OF ORDER AND PROCEDURE
OF THE FAYETTEVILLE PLANNING COMMISSION**

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The Planning Commission shall follow the precedence and classification of motions as given in the most recent edition of the Arkansas Municipal League's *Procedural Rules for Arkansas Municipal Officials*. In the event a matter is not covered by the *Procedural Rules for Arkansas Municipal Officials*, the most recent edition of Robert's Rules of Order shall apply. On questions of appeal, a majority of those present is required to overturn a ruling by the chair.

3. Motions to be Stated by the Chair/Withdrawal

When a motion is made and seconded, it shall be stated by the Chair before debate. After being stated by the Chair, a motion may not be withdrawn by the mover without the consent of the member seconding it.

4. Reconsideration

After the decision of any question, any member of the prevailing side may request a reconsideration of any action at the same or the next succeeding meeting. A motion to reconsider requires a simple majority for passage. After a motion for reconsideration has once been acted on, no other motion for reconsideration thereof shall be made without unanimous consent.

5. Items Tabled Indefinitely

Any item tabled indefinitely may be taken from the table by majority vote of the Planning Commission during the calendar year in which it was tabled indefinitely. All items tabled indefinitely and remaining on the table at the end of the calendar year shall be deemed denied and rejected for appellate and all other purposes on December 31st and shall not be considered by the Planning Commission in the future unless brought forward as a new item.

D. OFFICERS

1. Nominations and Elections

The Chair shall appoint three (3) members from the Planning Commission to serve as a nominating committee for the positions of Chair, Vice-chair and Secretary. The nominating committee shall present its slate to the Planning Commission who shall elect the Chair, Vice-chair and Secretary annually no later than the first regular meeting in the month of April. An officer of the Planning Commission may serve in any one position for no more than two consecutive terms.

2. Powers of the Chair

The Chair shall preside at all meetings and public hearings of the Planning Commission and shall decide all points of order or procedure. All plans, plats, etc., requiring the signature of the Planning Commission shall be signed by the Chair, Vice-chair or the Secretary; when authorized by the Planning Commission. These officers or any of them shall sign all other documents on behalf of the Commission.

3. Vice-Chair

The Vice-chair shall assume the duties of the Chair in the Chair's absence. In the event of the absence or disability of both the Chair and Vice-chair at any meeting, the Secretary shall assume the duties of the Chair. The longest serving commissioner shall act as Chair if no officer is present during such meeting. Should any unusual circumstance prevent the election of officers at the regular annual meeting, officers shall serve until their successors are elected.

4. Removal from Office

An Officer may be removed from their position with a two-thirds affirmative vote of all currently appointed Planning Commission members. A motion to remove an officer may be made at any regularly scheduled Commission meeting or Special Session of the Planning Commission and need not be placed on the agenda prior to the meeting. The vote shall be taken in the same manner as described in Section B.4.

5. Replacement of Officers

The Commission may fill a permanent Officer vacancy as soon as the next regularly scheduled Commission meeting or Special Session. An Officer vacancy may be filled with a majority affirmative vote of all commissioners present.

E. COMMITTEES

1. Special Committees

The Planning Commission may establish such standing, special or advisory committees as it deems advisable, and may assign to each committee specific duties or functions and establish the terms of members of each such committee. Members of such committees may be persons other than members of the Planning Commission, but a member of the Planning Commission shall be named as chair, either active or ex-officio, of each such committee.

2. Appointments by Chair

The Chair of the Planning Commission shall name the chair and members of each such committee subject to approval of the Planning Commission and any vacancies on such committee shall be filled in the same manner.

3. Subdivision Committee

A Subdivision Committee consisting of at least three Planning Commissioners shall serve as a standing committee that reviews development items after Technical Plat Review and makes recommendations to the Planning Commission. The Chair shall designate three (3) teams of three (3) Planning Commissioners to alternate as Subdivision Committee members, along with a chair of each Subdivision Committee. All members of the Planning Commission shall be eligible as alternates who shall sit with full voting rights in lieu of a regular member or members who are absent from the meeting. The Chair shall designate the order of alternates.

- a. The Subdivision Committee shall approve, disapprove, refer back to the developer for more information, or refer to the Planning Commission development items.
- b. A unanimous vote of the Subdivision Committee is required for final approval of a Large Scale Development. An applicant has the right to have a rehearing before the full Planning Commission.
- c. No development item can receive final approval at Subdivision Committee level if waivers or variances are being sought. Any development with a waiver or variance request must be forwarded to the Planning Commission. All preliminary plats shall be referred to the Planning Commission for action.

- d. In order to conduct the business of the Subdivision Committee, at least one (1) member shall be present. No item may be approved, however, unless at least two members present vote in favor of the request. Should two or more members of the committee abstain from an item or be absent, the item shall be forwarded for consideration by the Planning Commission. Should two members of the Subdivision Committee not agree on the recommended action for an item, the item shall be automatically forwarded to the full Planning Commission for consideration.

4. Long Range Planning Committee

A Long Range Planning Committee consisting of all nine Planning Commissioners shall be a standing committee of the Fayetteville Planning Commission. The Chair of the Planning Commission shall designate a chair of the Long Range Planning Committee. All members of the Planning Commission shall have full voting rights.

- a. The Long Range Planning Committee may review master plans and amendments, Unified Development Code amendments, and planning project items as well as planning and development initiatives and make recommendations to the Planning Commission.
- b. The Long Range Planning Committee shall meet after the second agenda session of each month, or at such other times designated by the Chair of the Long Range Planning Committee provided sufficient time is available to meet public notification requirements.
- c. In order to conduct the business of the Long Range Planning Committee, at least three (3) members shall be present. No motion to recommend an item may be approved, however, unless a simple majority of Commissioners present vote in favor of making a recommendation to the Planning Commission.
- d. Items may be placed on the Long Range Planning Committee agenda by the Chair, by any of the Commissioners, or by Staff. Requests for agenda additions must be made with sufficient time to meet public notification requirements.
- e. Items recommended to the Planning Commission for consideration may include, but are not limited to, proposed new master plans or amendments to existing master plans, proposed amendments to the Unified Development Code, proposed City-initiated rezonings, or other administrative items. The recommendations on such items may be for approval, disapproval, or recommendation of approval with revisions. Motions to make a recommendation on items do not require a roll call vote, but a roll call vote may be taken at the request of any Commissioner.
- f. The Long Range Planning Committee may seek consultation on general issues or specific initiatives. Consulted parties may have knowledge or experience including but not limited to former Planning Commissioners, planning professionals, architects, engineers, and other design professionals or persons knowledgeable on the topic being considered.

F. AMENDMENTS

These Rules of Order and Procedure may be amended or repealed by an affirmative vote of not less than a majority of the full membership of the Planning Commission. Any proposed amendment shall first be presented in writing at a regular meeting and placed on the agenda of a subsequent regular meeting for action unless ten (10) days' written notice of the proposal has been given to all Commissioners, in which case action may be taken at any regular or called meeting. However, an amendment may be made without notice if passed by a unanimous vote.

**Revised and adopted by the Planning Commission of the City of Fayetteville, Arkansas,
on the 14th day of August, 2023.**

APPROVED:

ATTEST:

Sarah Sparkman
Chair

Mary McGetrick
Secretary



TO: Fayetteville Planning Commission

FROM: Jessie Masters, Development Review Manager

MEETING DATE: August 14, 2023

SUBJECT: **ADM-2023-0026: Administrative Item (1299 W. VAN ASCHE DR./JJ'S SPORTS COMPLEX, 210):** Submitted by JORGENSEN & ASSOCIATES for property located at 1299 W. VAN ASCHE DR. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 11.88 acres. The request is to amend a previously approved conditional use permit.

RECOMMENDATION:

Staff recommends approval of **ADM-2023-0026**.

RECOMMENDED MOTION:

*"I move to approve **ADM-2023-0026**, determining:*

- In favor of the request to modify CUP-2022-0133, and*
- In favor of all other conditions as recommended by staff."*

BACKGROUND:

The subject property is in north Fayetteville on the south side of Van Asche Drive just east of the I-49 overpass. The property is currently zoned R-A, Residential-Agricultural, and developed with two single-family dwellings and associated outbuildings. Hydric soils are present on site, which are known indicators of wetlands, and much of the property lies within the City's I-540 Overlay District. A conditional use permit for a youth sports complex containing five structures was previously approved by the Planning Commission on January 23, 2023 (CUP-2022-0133). An amendment to that approved conditional use permit was approved by the Planning Commission on May 22, 2023 (ADM-2023-0015). Surrounding land uses and zoning are depicted in *Table 1*.

Table 1:
Surrounding Land Uses and Zoning

Direction	Land Use	Zoning
North	Institutional (under development); Industrial	C-2, Thoroughfare Commercial; LI, Light Industrial (City of Johnson)
South	I-49 (ARDOT Right-of-Way)	N/A
East	Agricultural	C-2, Thoroughfare Commercial
West	I-49 (ARDOT Right-of-Way)	N/A

Request: The applicant requests approval to amend their conditional use permit (CUP-2022-0133) to enlarge the scale of buildings on the site associated with a recreational facility. After submitting a request for large-scale development approval, staff identified that the proposed buildings had been expanded and shifted from what had originally been approved with the recent modification, requiring an additional modification to be approved by the Planning Commission.

Public Comment: To date, staff has received no public comment on this request.

DISCUSSION:

Staff supports the applicant's request to amend their conditional use permit. After adding an additional eight acres of land to their project area in May 2023, the applicant intends to modify the scale of the proposed buildings, as well as the parking requirements. Staff finds that expanding the scale of the proposed buildings would be compatible considering the property would still be buffered to the west by I-49 and adjacent to land that is undeveloped to the east. The development of a new charter school to the north also indicates a certain level of compatibility for the proposed youth sports complex. Compliance with development requirements, including drainage, tree preservation, and fire apparatus access, will still need to be fully reviewed for at the time of development review. An associated large-scale development is currently under review for the project (LSD-2023-0010).

RECOMMENDATION: Staff recommends approval of **ADM-2023-0026** subject to the following conditions:

Conditions of Approval:

1. This conditional use permit is limited to the use as described in the applicant's updated request letter. This conditional use permit is non-transferrable to a different business or property owner. The following specifications apply:
 - Size of the business:
 - 1 basketball training facility (59,502 sq. ft.)
 - 1 ninja park facility (9,900 sq. ft.)
 - 2 baseball training facilities (9,900 sq. ft. each)
 - 1 baseball training facility (15,625 sq. ft.)
 - 1 storage space (4,000 sq.ft.)
 - Hours of operation: 6:00 AM – 9:00 PM; seven days per week
 - Parking: 1 per 4 occupants (Recreational Uses)
2. All other conditions of the associated conditional use permit (CUP-2022-0133) and associated amendments not affected by this modification shall remain in effect.

PLANNING COMMISSION ACTION:				Required	<u>YES</u>
Date: <u>August 14, 2023</u>	☐ Tabled	☐ Approved	☐ Denied		
Motion:					
Second:					
Vote:					

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

- CUP-2022-0133 Conditions of Approval
- Applicant Request Letter
- Applicant Exhibit
- One Mile Map
- Close-up Map
- Current Land Use Map

CUP-2022-0133 Conditions of Approval

1. **Planning Commission determination of compatibility.** *Staff recommends that the proposed use is compatible with surrounding properties for the reasons outlined in this report (Planning Commission determined the use to be compatible);*
2. ~~This conditional use permit is limited to the use as described in the applicant's request letter. This conditional use permit is non-transferrable to a different business or property owner. The following specifications apply:~~
 - ~~Size of the business:~~
 - ~~3 baseball training facilities (9,900 sq. ft., 9,900 sq. ft., and 4000 sq. ft.)~~
 - ~~1 basketball training facility (15,400 sq. ft.)~~
 - ~~1 ninja park facility (9,900 sq. ft.)~~
 - ~~Hours of operation: 5:00 AM – 9:00 PM; seven days per week~~
 - ~~Parking: 1 per 4 occupants (Recreational Uses)~~
3. Approval of the conditional use permit does not grant development entitlement for site improvements. Improvements shall be considered for compliance with applicable zoning and development standards as required by the Unified Development Code;
4. Structures and overall development shall be subject to Commercial, Office, Mixed-Use Design and Development standards;
5. Access management standards shall be met per UDC 166.08; non-conforming access features shall be brought into compliance with ordinance with the development of new primary structures on the property;
6. Dumpsters shall be screened so that they are not visible from the public right-of-way; and
7. Any future expansion or change in the use shall require Planning Commission approval.

August 9, 2023

City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

Attn: Development Services
Re: ADM CUP 2022-0133 & 2023-0015

Please accept this request for an Administrative adjustment to the previously approved CUP 2022-0133 & 2023-0015. The goal is to update the CUP to reflect the current site plan and ensure that the CUP applies to Parcels 765-15820-000, 765-15804-004, 765-15817-000, 765-15804-005, 765-15804-001, & 765-15804-002.

JJ's Sports Complex- Overview

JJ's Sports Complex is a brand-new multi-sport training complex for athletes of all ages. The first of its kind in Northwest Arkansas, JJ's Sports Complex will host state of the art facilities for baseball, basketball, and other sports. JJ's Sports Complex seeks to become Northwest Arkansas's hub for competitive sports training for athletes of all ages.

Project Details

a. Building Size

1. 59,502 sq ft – Basketball
2. 9,900 sq ft – Ninja Building
3. 9,900 sq ft – Baseball Pitching
4. 9,900 sq ft – Baseball Hitting
5. 15,625 sq ft – Baseball Infield
6. 4,000 sq ft – JJ's Storage

b. Color Elevations

1. General Steel buildings

c. Parking Spaces

1. Per city of Fayetteville Codes (One space per 4 occupants),

d. Business Operations

1. Hours of Operation: 6:00 a.m. - 9:00 p.m.; 7 days/ week
2. Number of Employees: 25

e. Outdoor Lighting

1. Lighting to meet City of Fayetteville codes

f. Noise

1. Indoor facilities to limit noise
2. No neighboring residents

g. Screening/Buffering of Adjacent Properties

1. North- Van Asche
2. South- I-49
3. East- Unoccupied field

4. West- I-49

h. Trash and Refuse Service

1. Dumpster provided

i. Ingress and Egress

1. Van Asche Dr.- 4 lane high capacity connector
2. Vehicles may come in and out from either direction (no median)
3. Anticipated dedicated left and right turn out lanes
4. Parking lot- paved

j. Compatibility of Use

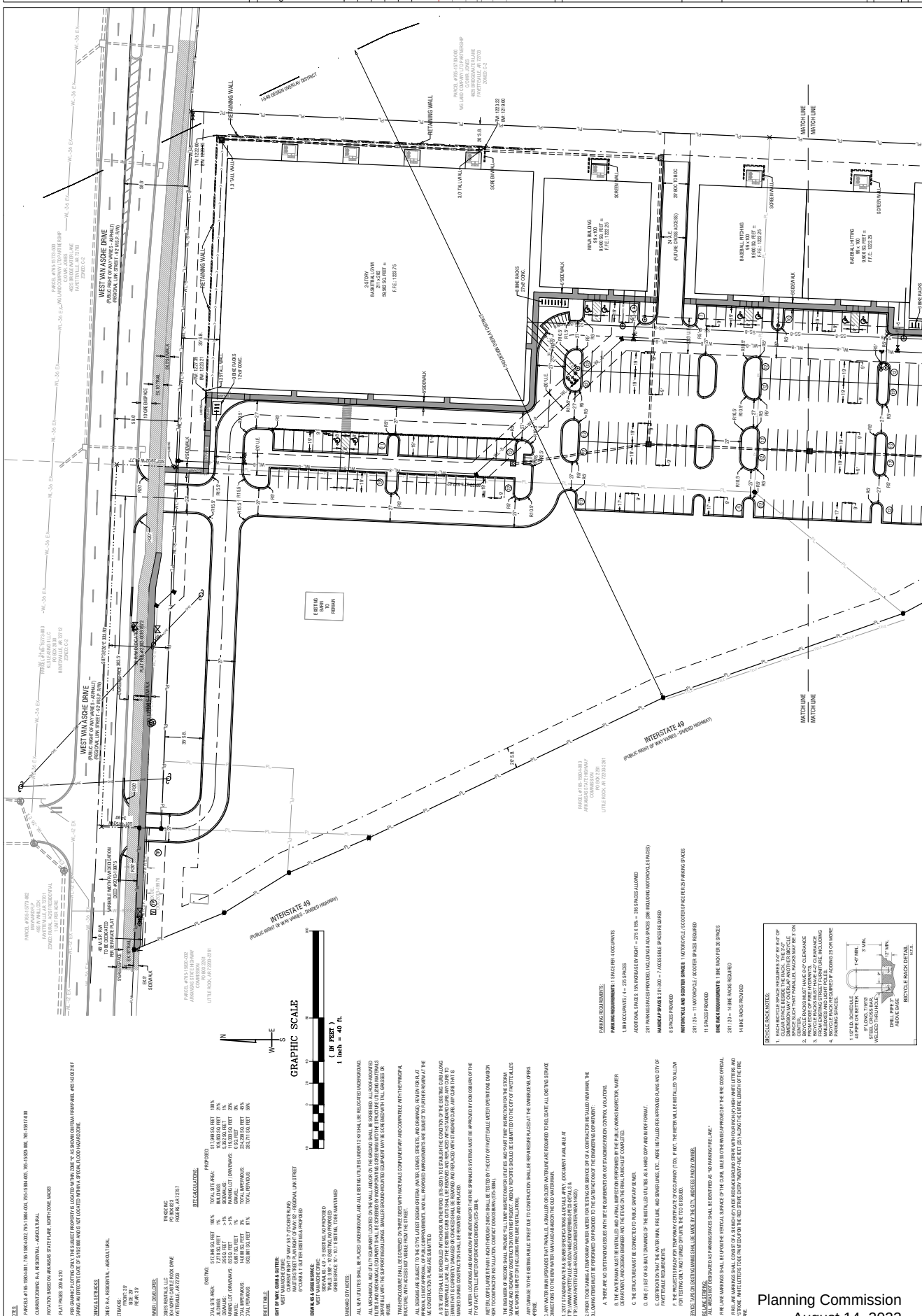
1. Unit 4- Culture/ Recreational Facilities- The proposed use is a conditional use of the Residential Agricultural (RA) zoned property. The use may best be described as athletic facilities/training. The primary demographic will be children ages 9-14.
2. Neighborhood- There are currently no immediate neighbors of the property. However, the LISA Academy is currently being constructed to the North of the property, just across Van Asche Dr. This project compliments the school as the purpose of the project is largely to serve school-aged children.

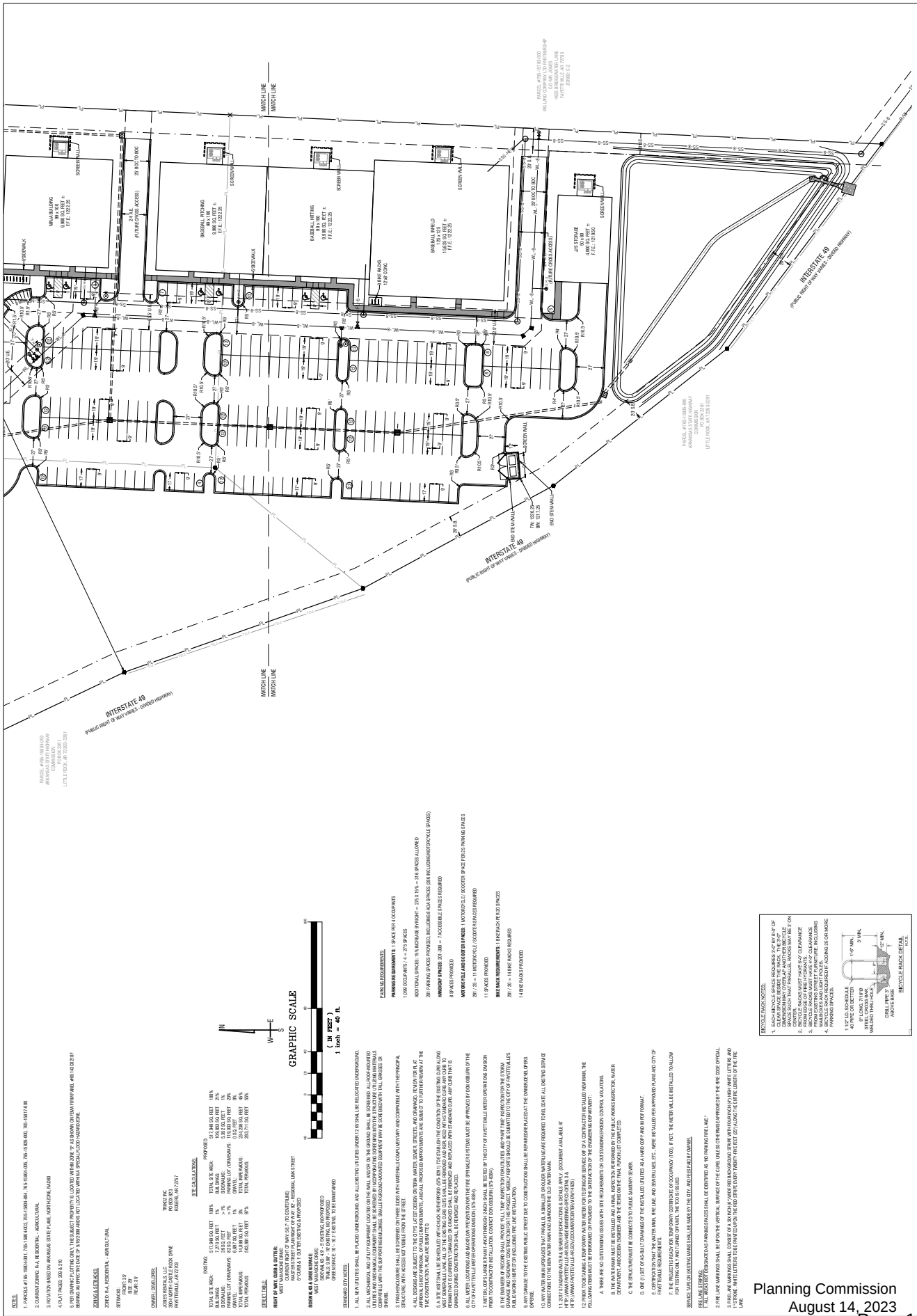
Please review this application and let us know if there are any questions that we may be able to answer.

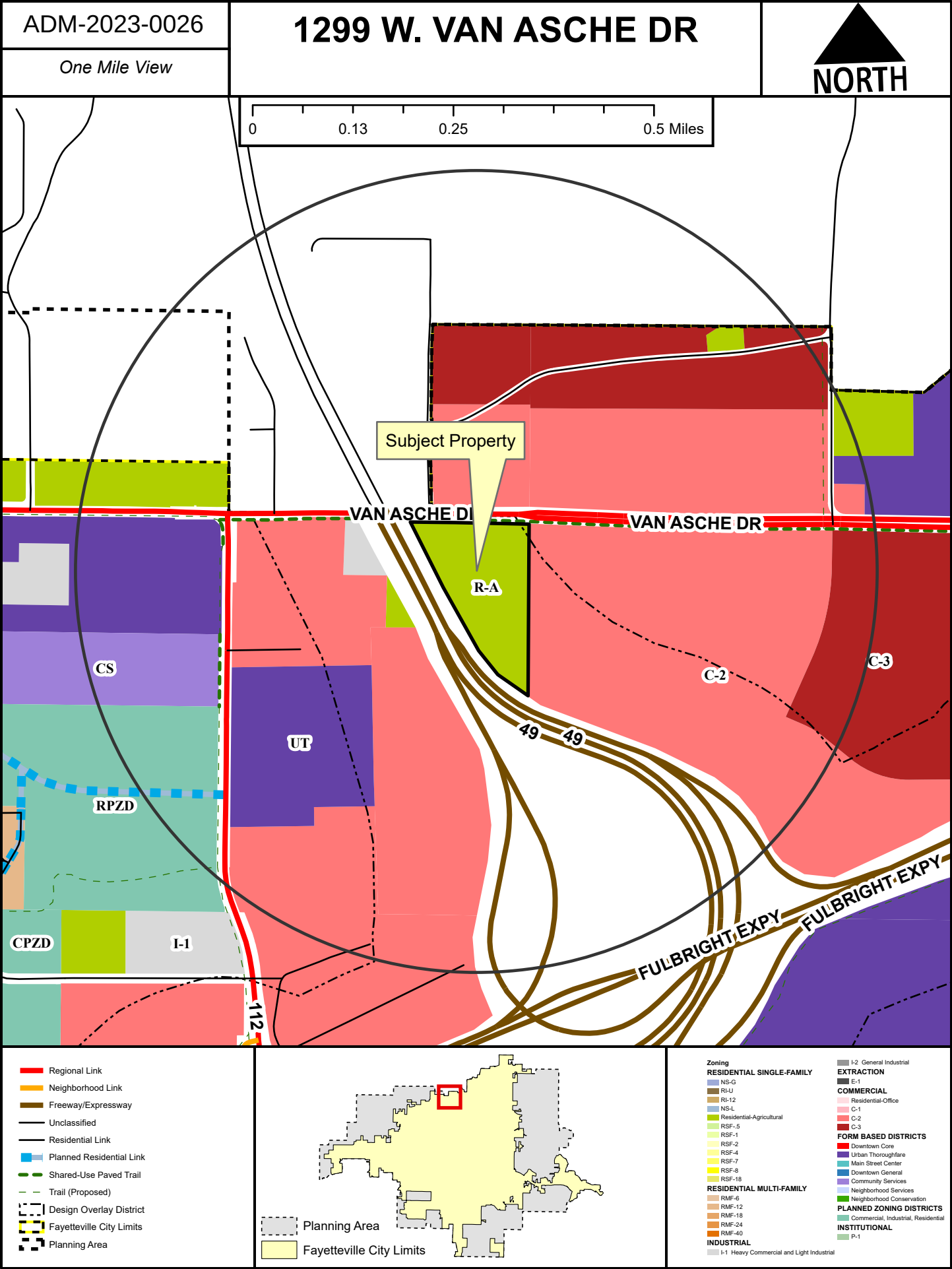
Thanks.

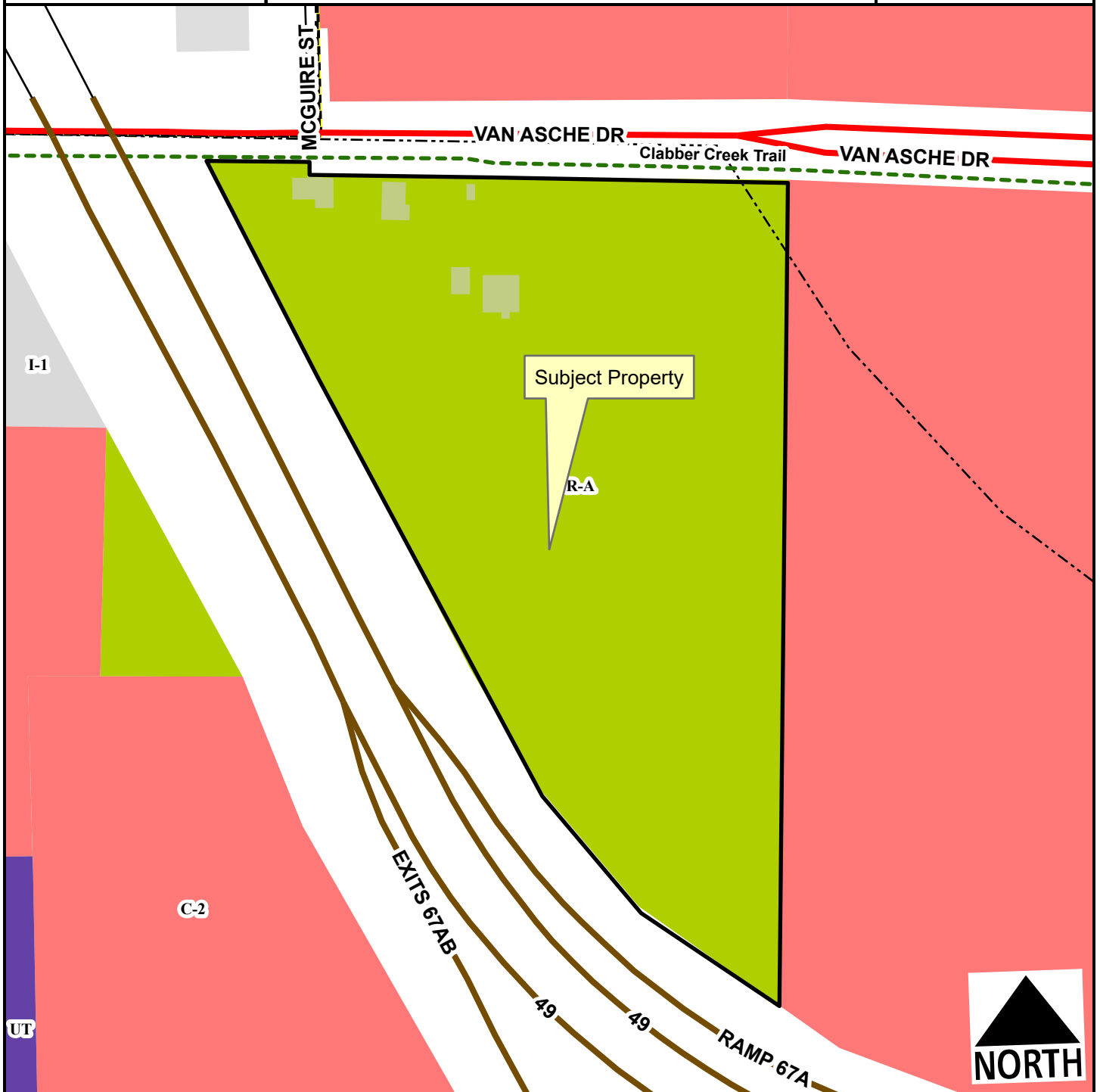


Blake Jorgensen, PE
Jorgensen + Associates

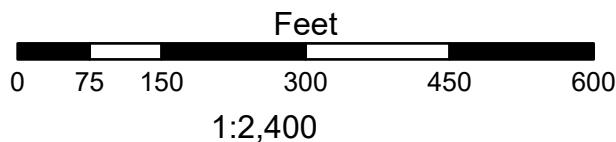








- Regional Link
- Freeway/Expressway
- Unclassified
- Residential Link
- Planning Area
- Fayetteville City Limits
- - - Shared-Use Paved Trail
- Design Overlay District



- Residential-Agricultural
- I-1 Heavy Commercial and Light Industrial
- C-2
- Urban Thoroughfare

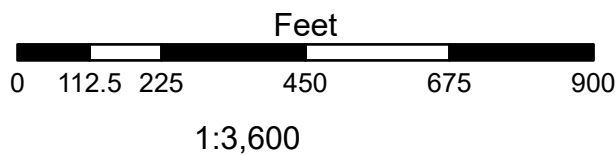
ADM-2023-0026

1299 W. VAN ASCHE DR

Current Land Use



- Regional Link
- Freeway/Expressway
- Unclassified
- Residential Link
- Planning Area
- Fayetteville City Limits
- Design Overlay District



FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Senior Planner

MEETING DATE: August 14, 2023

SUBJECT: **ADM-2023-0029: Administrative Item (3120 W. OLD FARMINGTON RD./SOUTHERN WOODS CLUSTER DEVELOPMENT, 557):** Submitted by COMMUNITY BY DESIGN for property located at 3120 W. OLD FARMINGTON RD. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approximately 20.40 acres. The request is for an amendment to a previously approved conditional use permit.

RECOMMENDATION:
Staff recommends approval of **ADM-2023-0029**.

RECOMMENDED MOTION:
"I move to approve ADM-2023-0029, determining:

- In favor of the request to modify CUP-2021-000056, and*
- In favor of all other conditions as recommended by staff."*

BACKGROUND:
The subject property is located on the south slope of Millsap Mountain just north of Old Farmington Road. The property contains roughly 20.40 acres and it received its current zoning designation of NC, Neighborhood Conservation, as a result of a rezoning last year (RZN-2022- 000011). A conditional use permit for 15 cluster housing developments containing a total of 162 single-family units was approved by the Planning Commission in January of 2022 (CUP-2021- 000056). An amendment to the conditions of its approval was approved by the Planning Commission in June of 2022 (ADM-2022-0033) and a one-year extension was approved in April of 2023 (ADM-2023-0010). The development entitlement for three of the cluster housing developments included in the CUP approval was approved by the Planning Commission in June of 2022 (LSD-2022-0014). Surrounding land uses and zoning are depicted in *Table 1*.

Table 1:
Surrounding Land Uses and Zoning

Direction	Land Use	Zoning
North	Single-Family Residential; Centennial Park	R-A, Residential-Agricultural; RSF-2, Residential Single-Family, Two Units per Acre; RSF-4, Residential Single-Family, Four Units per Acre
South	Single-Family Residential	R-A, Residential-Agricultural; RSF-4, Residential Single-Family, Four Units per Acre; RPZD, Residential Planned Zoning District
East	Single-Family Residential	R-A, Residential-Agricultural; NC, Neighborhood Conservation
West	Centennial Park	R-A, Residential-Agricultural; RSF-2, Residential Single-Family, Two Units per Acre

Request: The applicant requests an amendment to the conditions of approval of CUP-2021-000056 to modify required street improvements and right-of-way dedication along Street E. Currently, all internal streets are to be constructed as Alternative Residential Links with 34-foot right-of-way to include a five-foot sidewalk, curb and gutter, and asphalt paving, and a five-foot sidewalk with five-foot greenspace in a 10-foot easement adjacent to the right-of-way. The applicant's request is to modify Street E to include 33-foot right-of-way with asphalt paving, curb and gutter, and five-foot sidewalk along one side of the street, and five-foot greenspace in an easement adjacent to sidewalk.

Public Comment: To date, staff has received no public comment regarding this request.

DISCUSSION:

Staff supports the applicant's request to amend their conditional use permit. The applicant proposes to modify improvements along Street E to eliminate the requirement for five-foot sidewalk along the north side of the street. Removing the sidewalk, as proposed, would address concerns from staff about insufficient driveway length since it would increase the distance between the back of the right-of-way and the face of garage doors from roughly 13 to 19 feet. Since driveways would be designed to meet the minimum length required by code, staff finds that vehicles would not likely park in a manner that would encroach into the right-of-way. Since there are limited opportunities to extend Street E due to the presence of tree preservation easements, and sidewalk is still proposed to be maintained along the south side of the street, staff finds that removing the sidewalk on the north side of the street is not likely to create a dangerous condition for pedestrians. Further, the sidewalk along the south side of the street could still provide a pedestrian connection to the primitive trail that is planned to extend from the west end of Street E to Centennial Park to the north.

RECOMMENDATION: Staff recommends approval of **ADM-2023-0029** subject to the following conditions:

Conditions of Approval:

1. Right-of-way dedication in the amount of 33 feet wide shall be required along Street E;
2. Street improvements along Street E shall include asphalt paving and curb and gutter to align with the Alternative Residential Link street section, and five-foot sidewalk at the back of curb along the south side of the street; and
1. All other conditions of the associated conditional use permit (CUP-2021-000056) not affected by this modification shall remain in effect.

PLANNING COMMISSION ACTION:	Required	<u>YES</u>
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Date: <u>August 14, 2023</u>	☐ Tabled	☐ Approved	☐ Denied
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Motion:

Second:

Vote:

BUDGET/STAFF IMPACT:

None

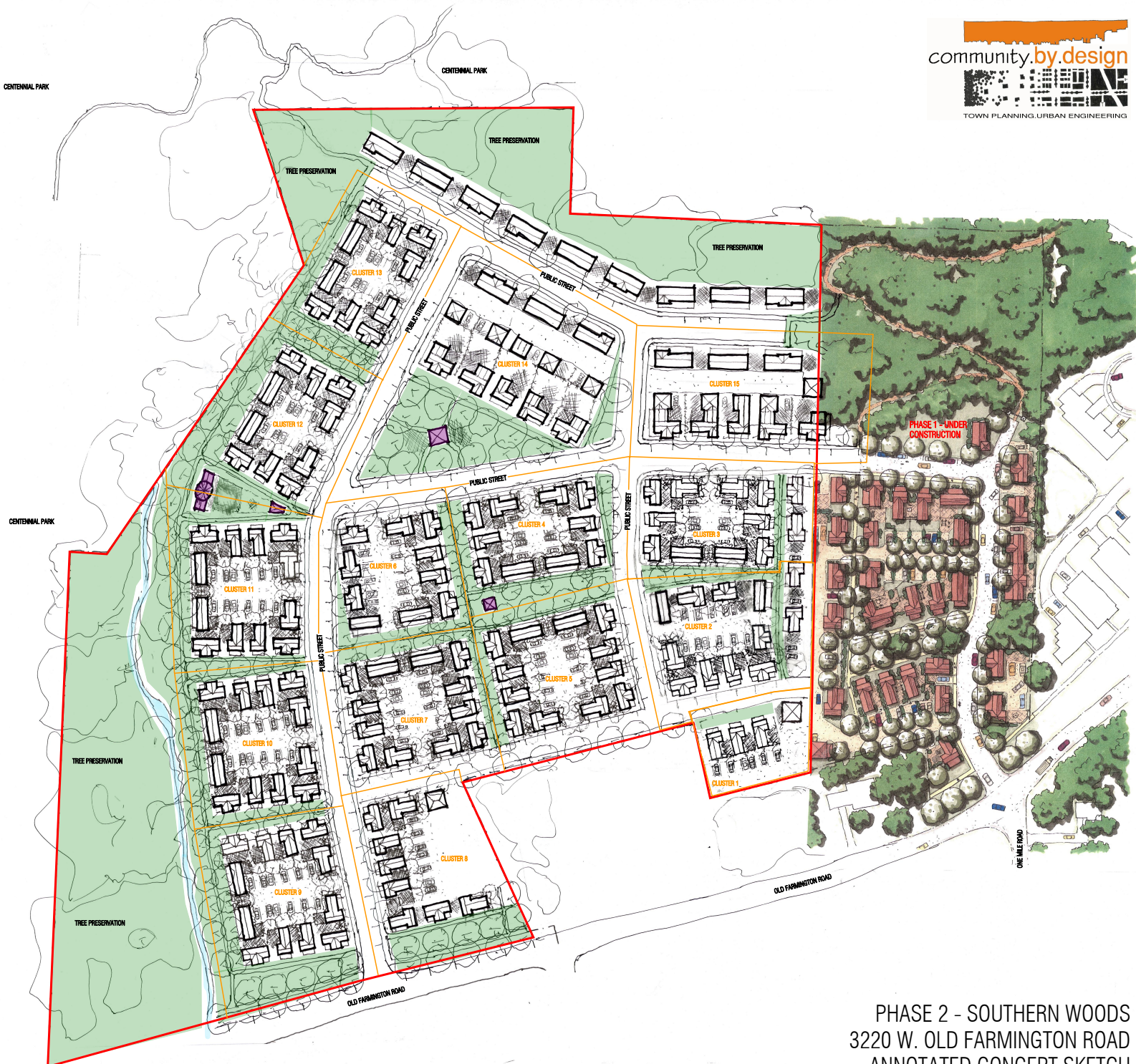
ATTACHMENTS:

- CUP-2021-000056 Conditions of Approval
- CUP-2021-000056 Site Exhibit
- Applicant Request Letter
- One Mile Map
- Close-up Map
- Current Land Use Map

CUP-2021-000056 Conditions of Approval:

1. **Planning Commission determination of compatibility.** Staff finds the proposed cluster housing development to be compatible with the proposed neighborhood based on the findings in this report;
2. **Planning Commission determination of requested Master Street Plan determination and variance.** Staff finds in favor of a variance to §166.04, Required Infrastructure Improvements for reasons stated above;
3. **Planning Commission determination of street improvements.** Staff recommends the following street improvements:
 - a. The internal streets shall be constructed as depicted in the applicant's street section exhibit, with sidewalk widths amended to 5 feet. Improvements include right-of-way dedication of 34 feet, 5-foot sidewalk, a 7-foot on-street parking lane, and curb and gutter in the right-of-way and a 5-foot sidewalk, 5 feet of greenspace, and street trees within the proposed 10-foot easement. Infrastructure outside of the right-of-way, including alleys, shall be owned and maintained by a property owner's association; and
 - b. A traffic study shall be provided at the time of the first development application. This traffic study should follow the Minimum Street Standards, Chapter 3, and evaluate possible needs for improvements to the following intersections: Old Farmington Road – Martin Luther King Jr. Blvd., Old Farmington Road – One Mile Road, and One Mile Road – Martin Luther King Jr. Blvd.
4. At the time of development submittal, the applicant shall include analysis of stormwater downstream, off-site capacity analysis of existing conditions along Old Farmington Road;
5. Prior to development submittal, the applicant shall coordinate with the City's Recycling and Trash Collection Commercial Representative, Drew Cook, to establish a collection plan. The current trash collection plan is inadequate;
6. Conditional use permit approval of the conditional use permit does not ensure approval of a development application. The conditional use grants the applicant rights to submit a development proposal based on the conceptual layout included herein. However, the applicant must still be able to comply with all other development requirements, including but not limited to, tree preservation, drainage, utility installation and Fire Department access. These details shall be reviewed with the development application.
7. The final project design shall follow the general layout and design of the conditional use concept plan. A development application (Preliminary Plat and/or Large Scale/Site Improvement Plan) is required to go through the review process prior to any building permits to ensure compliance with all Unified Development Code requirements;
8. Fence details shall be provided at the time of development review. Fences interior to the development or between a unit and a public street or trail shall be no higher than 48 inches;
9. A condominium association, homeowner's association, or similar mechanism to maintain the common amenities shall be established prior to issuance of construction permits. The City of Fayetteville does not enforce these private agreements, but will require that this agreement be in place prior to issuing building permits;

10. Prior to receiving a certificate of occupancy for the first home all shared parking areas and bike racks shall be installed. All development requirements, such as detention facilities, utilities, required landscaping, etc. shall be installed prior to any building permits being issued. The exact phasing of improvements will be determined at development review;
11. The maximum number of unrelated persons in any dwelling unit is three, pursuant to the underlying single-family zoning district;
12. Per §166.20, Expiration of Approved Plans and Permits, conditional use permit approval is for one year; and
13. Exterior lighting package must be provided to the Planning Division prior to building permit approval. Common area lighting shall comply with UDC §176 Outdoor Lighting.



PHASE 2 - SOUTHERN WOODS
3220 W. OLD FARMINGTON ROAD
ANNOTATED CONCEPT SKETCH
12/14/21

July 17, 2023
Via EnerGov

Ms. Gretchen Harrison, Senior Planner
City of Fayetteville
125 West Mountain Street
Fayetteville, Arkansas 72701

RE: **CUP-2021-00056 Amendment Request – Street E Cross Section**

Ms. Harrison,

Please allow this letter to serve as a request to amend the approved internal street cross section for the proposed Street E. The specific amendment requested for Street E is for a sidewalk on one side of the street instead of both sides. The current approved street cross section is shown on Exhibit #2. The street proposed with this amendment request for the Street E location is shown on attached Exhibit #3. Because only 9 houses utilize Street E for primary vehicular access and there is almost no possibility that the street will ever be extended, traffic volumes and vehicular speeds will be extremely low, and therefore one sidewalk will be more than adequate. This is in accordance with the alternative residential link section from City Plan 2040 and the Hillside Hilltop Overlay District (HHOD) section from City Plan 2030, both of which propose only one sidewalk, see Exhibits #5 and #6. Also, see the attached site plan Exhibit #1.

As proposed, the 8 houses on the north side of Street E would be built into the hillside slope, and the bottom story of the 3-story house would act to retain the hillside behind it. The bottom story would also be a 2-car garage with 2 separate garage doors / bays accessed from Street E. See the attached cross section Exhibit #4. The proposal follows recommended best practices for the hillside condition in terms of minimizing land disturbance and preserving more tree canopy.

Using the proposed amended section for Street E, the garage face would be set back approximately 18' from the Master Street Plan right-of-way line. Exhibit #4 attempts to illustrate that by moving the house back an additional 6-7' to accommodate a second sidewalk, the cut and retaining required would exceed City UDC minimums of 10' and become nearly impractical and potentially dangerous to construct. The proposed finished grade elevation of Street E has been set by fire code minimum requirements to provide safe fire access to the street. So, increasing the elevation of Street E is not possible. Approving the proposed amended Street E section makes possible the following benefits:

1. Minimized land disturbance and cut / retaining situations which would be potentially safer to construct.
2. Minimized impacts to tree canopy in tree preservation easements.
3. A streetscape with houses and front porches closer to the street as encouraged by City Plan and the form-based zoning districts, which will make the street environment safer and more walkable.
4. Garages positioned 18' from the Master Street Plan right-of-way line in accordance with UDC 172.11(G)(2).

Please let me know if you have questions or if you need additional information in order to process this request.

Sincerely,



Brian Teague - Community By Design

100 West Center Street Suite 300
Fayetteville, AR 72701

479.790.6775
Planning Commission

August 14, 2023

Community C-3

[illegible]Page 2 of 2

Houses 1A-14J	Single Family
Houses 15A-19J	Single Family

Test	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100
Test	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100

PARKING ANALYSIS

OVERALL SITE PLAN

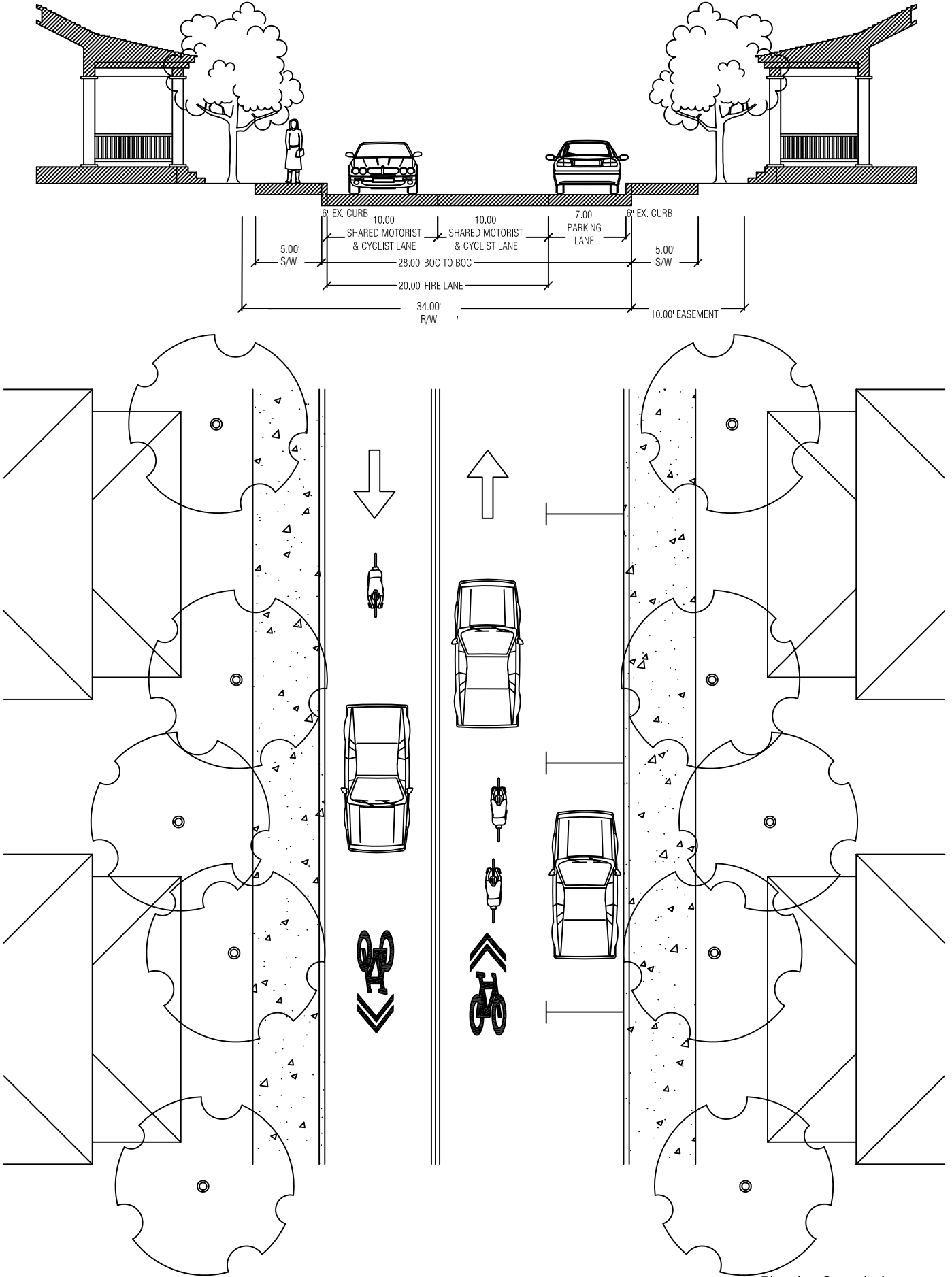


EXHIBIT #3 - PROPOSED STREET E 33.00' R/W SECTION 7/17/23

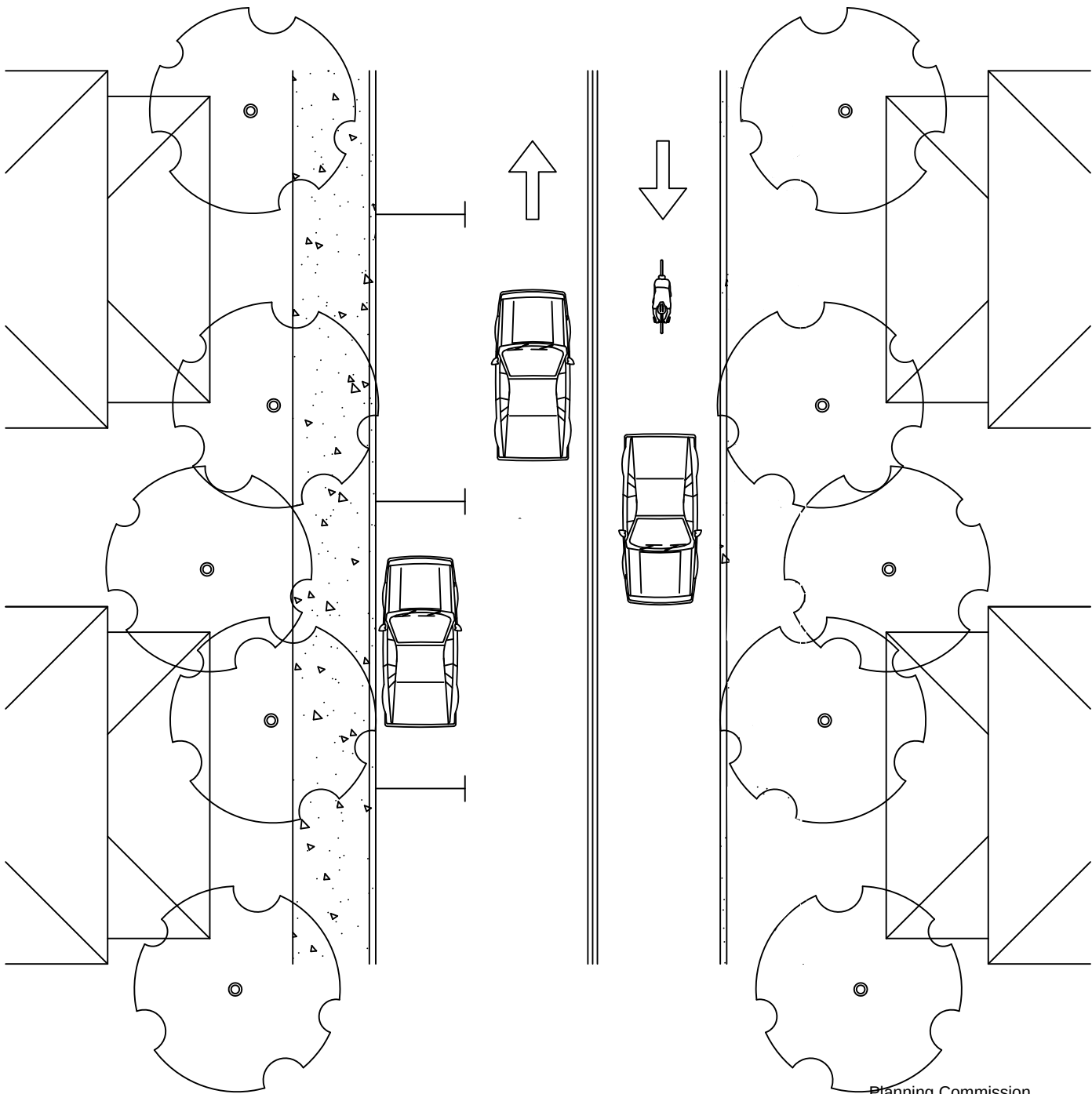
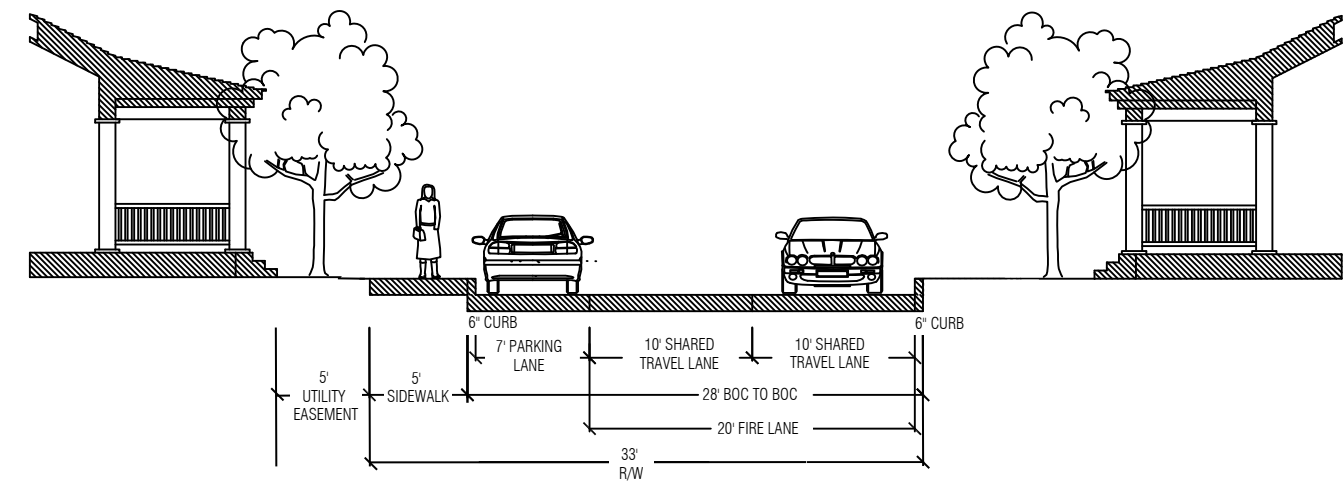
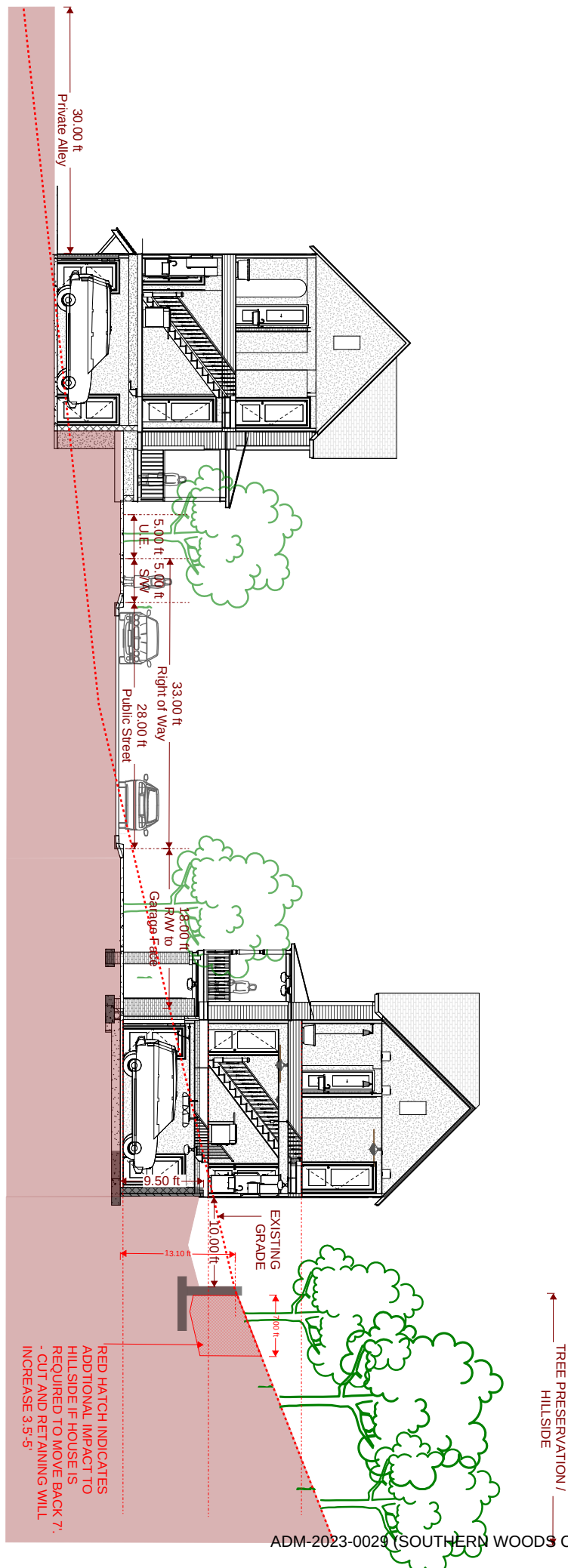


EXHIBIT #4
7/17/23



Alternative Residential Link Street - Desired Operating Speed: 15-20 mph

The alternative residential link street section is intended to reduce the footprint of the residential street scape while keeping a safe environment for all modes and abilities. Storm drainage infrastructure should have adequate depth or be offset to avoid conflicts with street tree plantings. Low-Impact Development (LID) features in green spaces are recommended best practices to incorporate alternative stormwater treatment techniques.

EXHIBIT #5

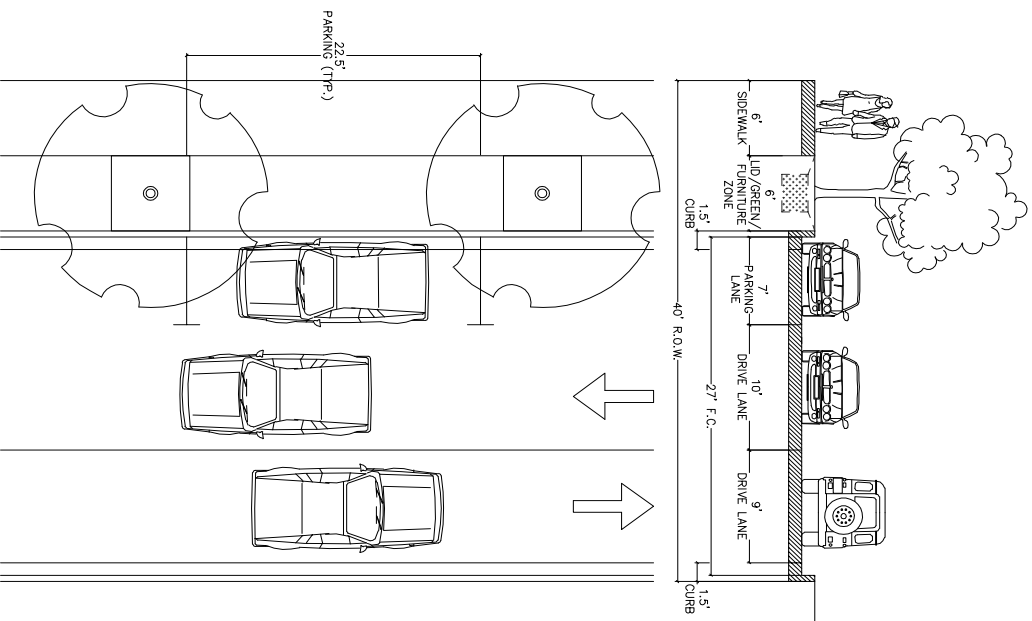


Figure 12.9 - Alternative Residential Link Street



- The alternative residential link street section shall require Planning Commission approval in areas other than the Hilltop-Hillside Overlay District and the following should be taken into consideration:
- Block lengths less than or equal to 400-feet
 - Environmental reasons where no other section is applicable
 - Historic streets for small infill projects
 - Streets with less than 250 vehicles per day
 - Alley-loaded development

As determined by city staff, additional roadway elements may be required and include:

- An additional 2-ft frontage zone where buildings abut right-of-way. This may be accomplished with setbacks or additional right-of-way.
- Streets planned with on street bike facilities as shown on the Active Transportation Plan, shall accommodate one 10-ft sidewalk by increasing right-of-way by 4-ft.

Alternative design elements may be approved administratively and include:

- Removal of the 7-ft parking lane will be considered when adequate parking is provided elsewhere.

Minimum Right-of-Way: 33-feet
Maximum Right-of-Way: 40-feet

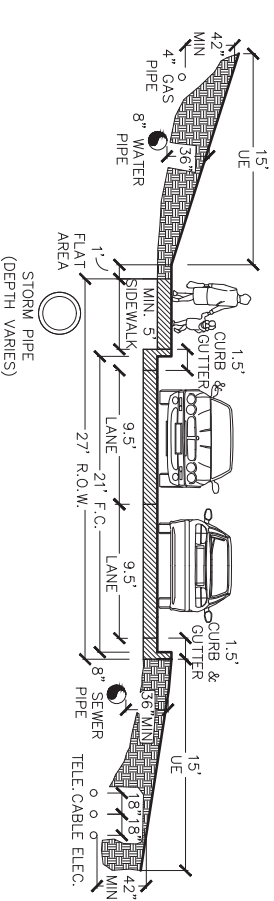
12.2.7

HILLTOP-HILLSIDE OVERLAY DISTRICT STREETS

H.H.O.D. (HILLTOP-HILLSIDE OVERLAY DISTRICT) STREETS are designed with a narrow right-of-way in order to minimize grading disturbance and tree removal, while still accommodating utility locations, vehicular and pedestrian movements. Hillside Residential streets carry limited traffic through neighborhoods, while Hillside Local streets collect traffic from the neighborhoods and disperse it to minor arterials. They have a low level of access management.

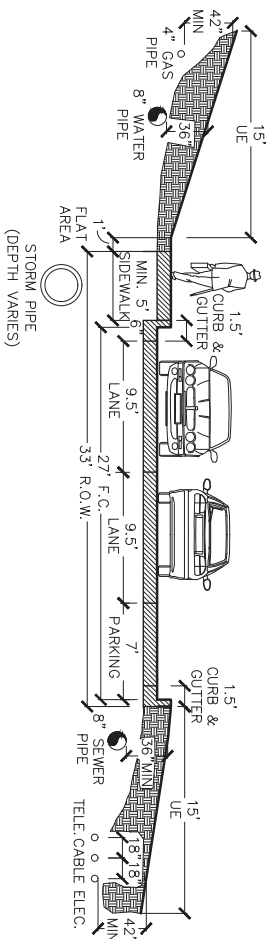
8a HILLSIDE RESIDENTIAL:

- Design Service Volume: < 500 vpd
- Desired Operating Speed: 15-20 mph
- Travel Lanes: Two 9.5' lanes
- Parking: Not Allowed
- Paved Width: 21' from face of curb
- Right of Way: 27'
- Sidewalks: One, at least 5' wide, abutting curb
- Greenspace: None
- Utility Easements: Two, 15' at R.O.W.



8b HILLSIDE LOCAL:

- Design Service Volume: < 4000 vpd
- Desired Operating Speed: 20-25 mph
- Travel Lanes: Two 9.5' lanes
- Parking: One 7' lane
- Paved Width: 27' from face of curb
- Right of Way: 33'
- Sidewalks: One, at least 5' wide, abutting curb
- Greenspace: None
- Utility Easements: Two, 15' at R.O.W.



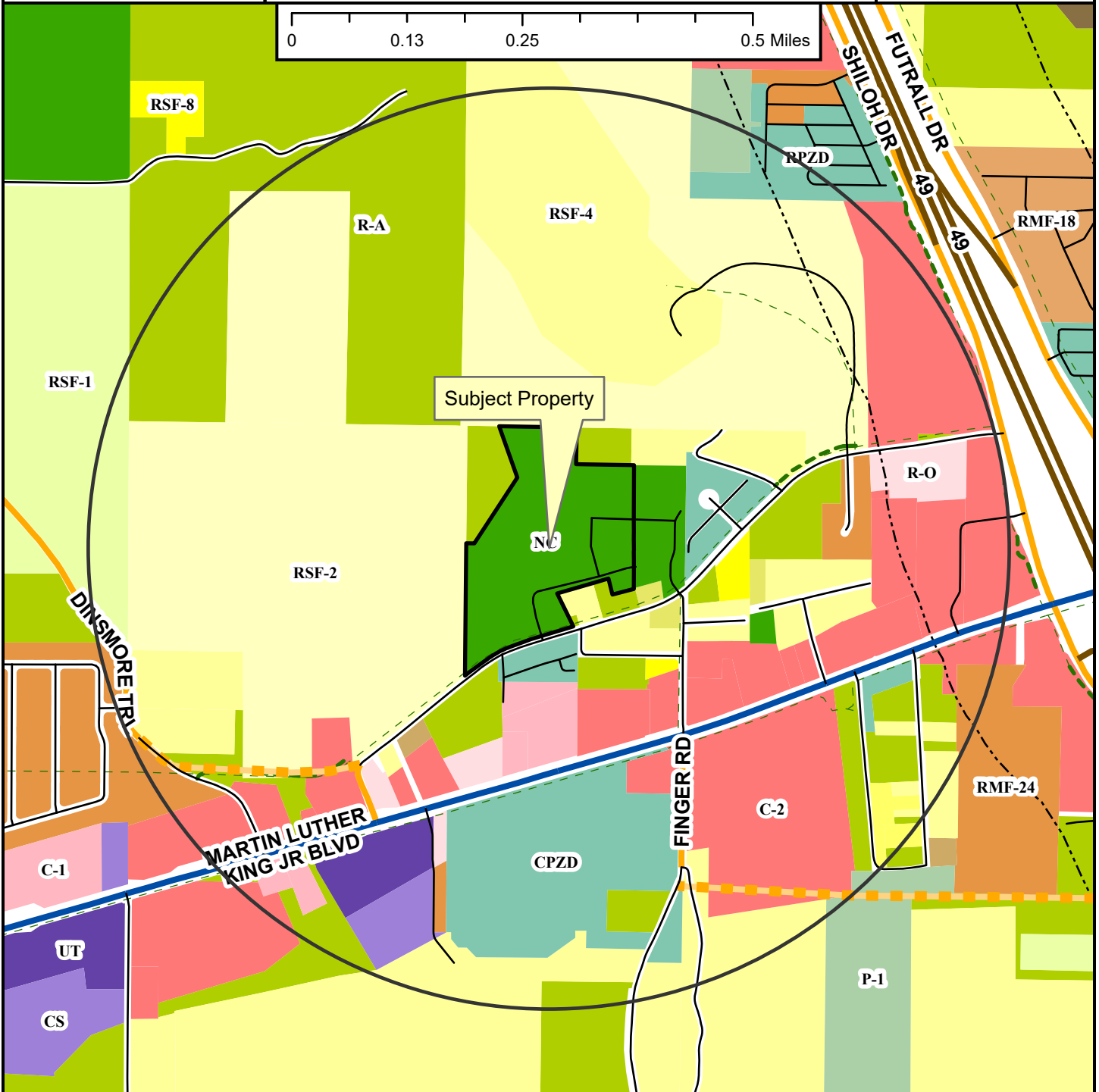
ADM-2023-0029

3120 W. OLD FARMINGTON RD.

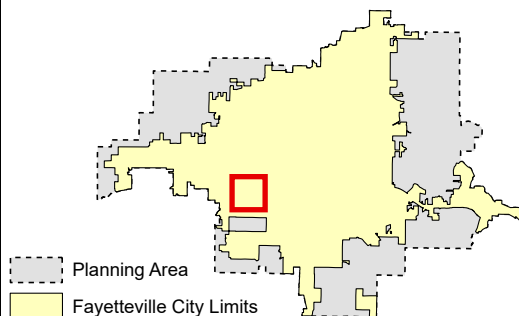
One Mile View



0 0.13 0.25 0.5 Miles



- Neighborhood Link
- Regional Link - High Activity
- Freeway/Expressway
- Unclassified
- Alley
- Residential Link
- Planned Neighborhood Link
- Shared-Use Paved Trail
- Trail (Proposed)
- Design Overlay District
- Fayetteville City Limits
- Planning Area

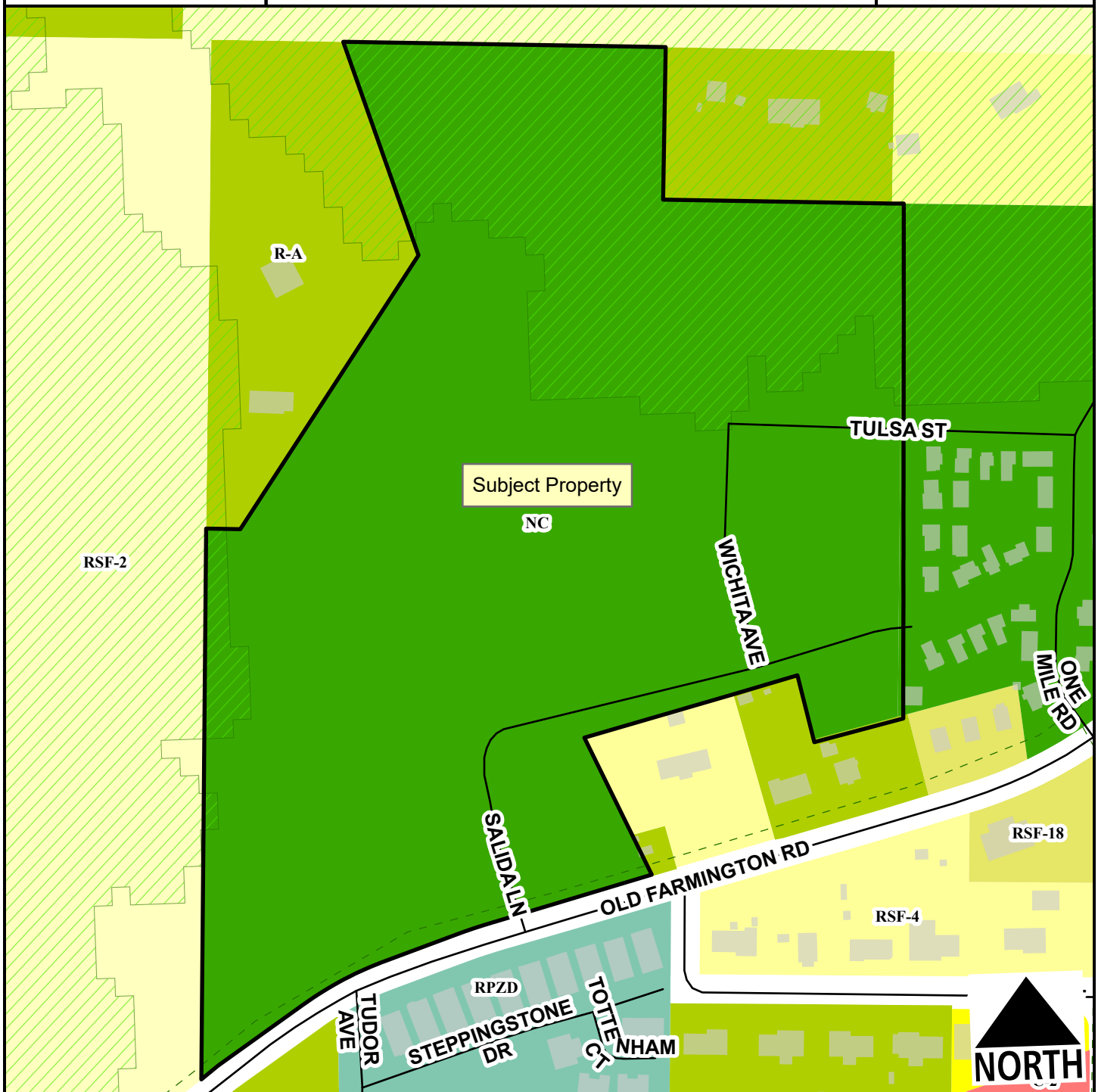


- | | |
|--|--|
| <p>Zoning</p> <p>RESIDENTIAL SINGLE-FAMILY</p> <ul style="list-style-type: none"> NS-G RI-U RI-12 NS-L RSF-5 RSF-1 RSF-2 RSF-4 RSF-7 RSF-8 RSF-18 <p>RESIDENTIAL MULTI-FAMILY</p> <ul style="list-style-type: none"> RMF-6 RMF-12 RMF-13 RMF-24 RMF-40 <p>INDUSTRIAL</p> <ul style="list-style-type: none"> I-1 Heavy Commercial and Light Industrial | <p>EXTRACTION</p> <ul style="list-style-type: none"> E-1 <p>COMMERCIAL</p> <ul style="list-style-type: none"> C-1 Residential-Office C-2 C-3 <p>FORM BASED DISTRICTS</p> <ul style="list-style-type: none"> Downtown Core Urban Thoroughfare Main Street Center Downtown General Community Services Neighborhood Services Neighborhood Conservation <p>PLANNED ZONING DISTRICTS</p> <ul style="list-style-type: none"> Commercial, Industrial, Residential INSTITUTIONAL P-1 |
|--|--|

Planning Commission

August 14, 2023

Close Up View



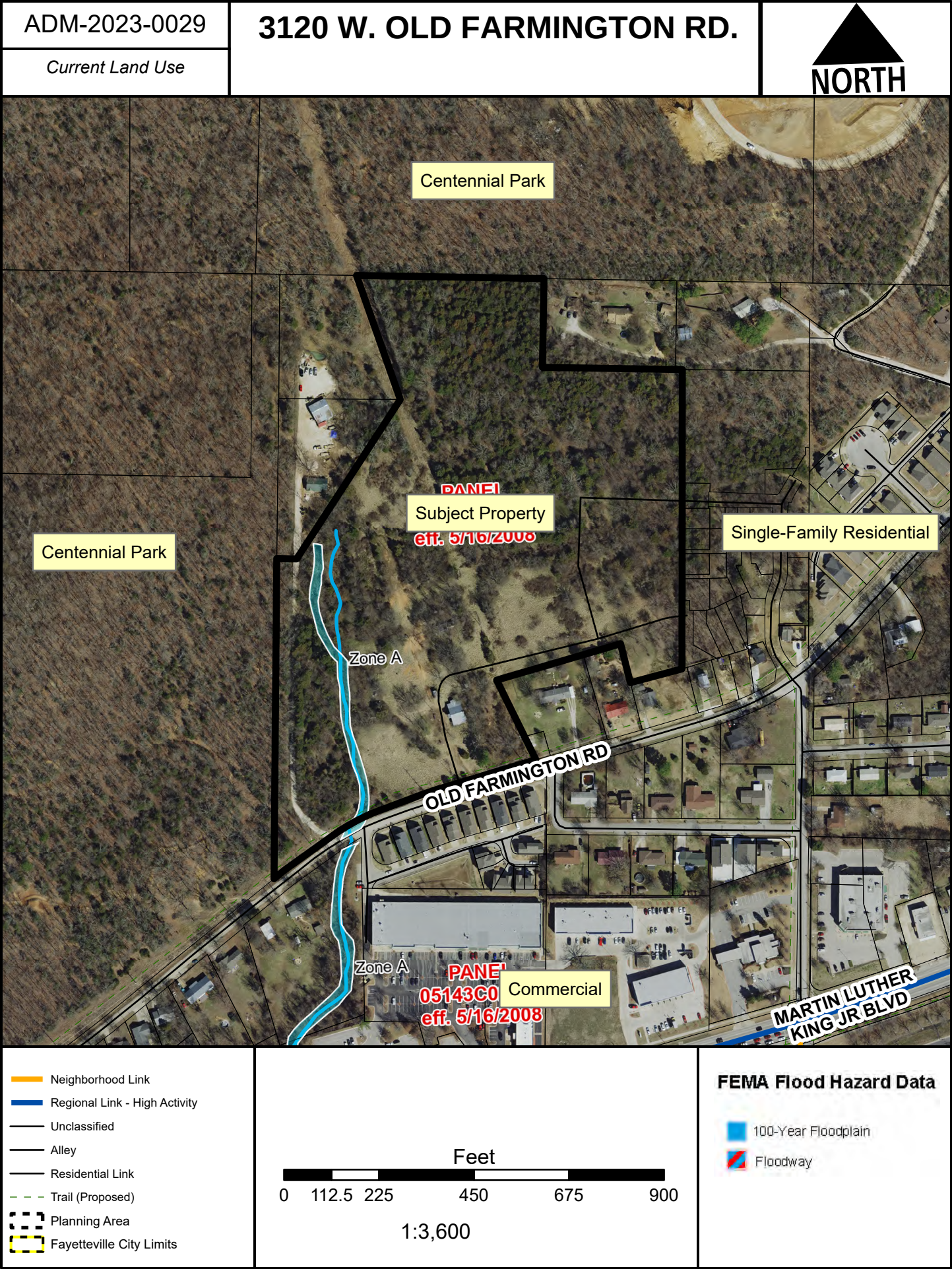
- Unclassified
- Residential Link
- ▨ Hillside-Hilltop Overlay District
- ▨ Planning Area
- ▨ Fayetteville City Limits
- - - Trail (Proposed)

Feet

0 75 150 300 450 600

1:2,400

- Residential-Agricultural
- RSF-2
- RSF-4
- RSF-8
- RSF-18
- C-2
- Neighborhood Conservation
- Commercial, Industrial, Residential





TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Senior Planner

MEETING DATE: August 14, 2023

SUBJECT: **ADM-2023-0031: Administrative Item (3120 W. OLD FARMINGTON RD./SOUTHERN WOODS CLUSTER DEVELOPMENT, 557):** Submitted by COMMUNITY BY DESIGN for property located at 3120 W. OLD FARMINGTON RD. The property is zoned NC, NEIGHBORHOOD CONSERVATION and contains approximately 20.40 acres. The request is for an amendment to a large scale development.

RECOMMENDATION:
Staff recommends approval of **ADM-2023-0031**.

RECOMMENDED MOTION:
*"I move to approve **ADM-2023-0031**, determining:*

- In favor of the request to modify LSD-2022-0042, and*
- In favor of all other conditions as recommended by staff."*

BACKGROUND:
The subject property is located on the south slope of Millsap Mountain just north of Old Farmington Road. The property contains roughly 20.40 acres and it received its current zoning designation of NC, Neighborhood Conservation, as a result of a rezoning last year (RZN-2022- 000011). A conditional use permit for 15 cluster housing developments containing a total of 162 single-family units was approved by the Planning Commission in January of 2022 (CUP-2021- 000056). An amendment to the conditions of its approval was approved by the Planning Commission in June of 2022 (ADM-2022-0033) and a one-year extension was approved in April of 2023 (ADM-2023-0010). The development entitlement for three of the cluster housing developments included in the CUP approval was approved by the Planning Commission in June of 2022 (LSD-2022-0014). Surrounding land uses and zoning are depicted in *Table 1*.

Table 1:
Surrounding Land Uses and Zoning

Direction	Land Use	Zoning
North	Single-Family Residential; Centennial Park	R-A, Residential-Agricultural; RSF-2, Residential Single-Family, Two Units per Acre; RSF-4, Residential Single-Family, Four Units per Acre
South	Single-Family Residential	R-A, Residential-Agricultural; RSF-4, Residential Single-Family, Four Units per Acre; RPZD, Residential Planned Zoning District
East	Single-Family Residential	R-A, Residential-Agricultural; NC, Neighborhood Conservation
West	Centennial Park	R-A, Residential-Agricultural; RSF-2, Residential Single-Family, Two Units per Acre

Request: The applicant requests an amendment to the conditions of approval of LSD-2022-0042 to modify required street improvements and right-of-way dedication along Street E. Currently, all internal streets are to be constructed as Alternative Residential Links with 34-foot right-of-way to include a five-foot sidewalk, curb and gutter, and asphalt paving, and a five-foot sidewalk with five-foot greenspace in a 10-foot easement adjacent to the right-of-way. The applicant's request is to modify Street E to include 33-foot right-of-way with asphalt paving, curb and gutter, and five-foot sidewalk along one side of the street, and five-foot greenspace in an easement adjacent to sidewalk.

Public Comment: To date, staff has received no public comment regarding this request.

DISCUSSION:

Staff supports the applicant's request to amend their conditional use permit. The applicant proposes to modify improvements along Street E to eliminate the requirement for five-foot sidewalk along the north side of the street. Removing the sidewalk, as proposed, would address concerns from staff about insufficient driveway length since it would increase the distance between the back of the right-of-way and the face of garage doors from roughly 13 to 19 feet. Since driveways would be designed to meet the minimum length required by code, staff finds that vehicles would not likely park in a manner that would encroach into the right-of-way. Since there are limited opportunities to extend Street E due to the presence of tree preservation easements, and sidewalk is still proposed to be maintained along the south side of the street, staff finds that removing the sidewalk on the north side of the street is not likely to create a dangerous condition for pedestrians. Further, the sidewalk along the south side of the street could still provide a pedestrian connection to the primitive trail that is planned to extend from the west end of Street E to Centennial Park to the north.

RECOMMENDATION: Staff recommends approval of **ADM-2023-0031** subject to the following conditions:

Conditions of Approval:

1. Right-of-way dedication in the amount of 33 feet wide shall be required along Street E;
2. Street improvements along Street E shall include asphalt paving and curb and gutter to align with the Alternative Residential Link street section, and five-foot sidewalk at the back of curb along the south side of the street; and
1. All other conditions of the associated large scale development (LSD-2022-0042) not affected by this modification shall remain in effect.

PLANNING COMMISSION ACTION:	Required	<u>YES</u>
------------------------------------	-----------------	-------------------

Date: <u>August 14, 2023</u>	☐ Tabled	☐ Approved	☐ Denied
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Motion:

Second:

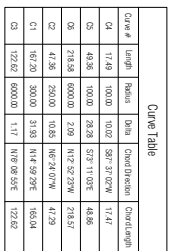
Vote:

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

- LSD-2022-0042 Site Exhibit
- Applicant Request Letter
- One Mile Map
- Close-up Map
- Current Land Use Map



ALL DWELLING UNITS SERVED ARE MULTI-STORY DETACHED SINGLE-FAMILY HOUSES WITH NO ELEVATION. THE FEAR HOOD ACT ONLY APPLIES TO NEW CONSTRUCTION OF MULTI-FAMILY DWELLINGS. THEREFORE NO ACCESSIBLE DWELLING UNITS OR PARKING SPACES ARE REQUIRED ON PROPOSED PLACES OF PUBLIC ACCOMMODATIONS IDENTIFIED BY THE AMERICAN WITH DISABILITIES ACT. ADA ARE NOT REQUIRED AND ALL IMPROVEMENTS ARE PRIVATE. ALSO PER ADA, THE PROPOSED DWELLING UNITS ARE DETACHED AND CONSIDERED SINGLE-FAMILY DWELLINGS. THEREFORE ACCESSIBLE DWELLING UNITS AND/OR STAIR IMPROVEMENTS ARE NOT REQUIRED ON PROPOSED

[illegible]

FLOOD CERTIFICATION:

July 19, 2023
Via EnerGov

Ms. Gretchen Harrison, Senior Planner
City of Fayetteville
125 West Mountain Street
Fayetteville, Arkansas 72701

RE: **LSD-2022-0042 Amendment Request – Street E Cross Section**

Ms. Harrison,

Please allow this letter to serve as a request to amend the approved internal street cross section for the proposed Street E to be in accordance with ADM 2023 0029 if approved by Planning Commission. ADM 2023 0029 will modify the Street E cross section associated with CUP 2021 000056.

Please let me know if you have questions or if you need additional information in order to process this request.

Sincerely,

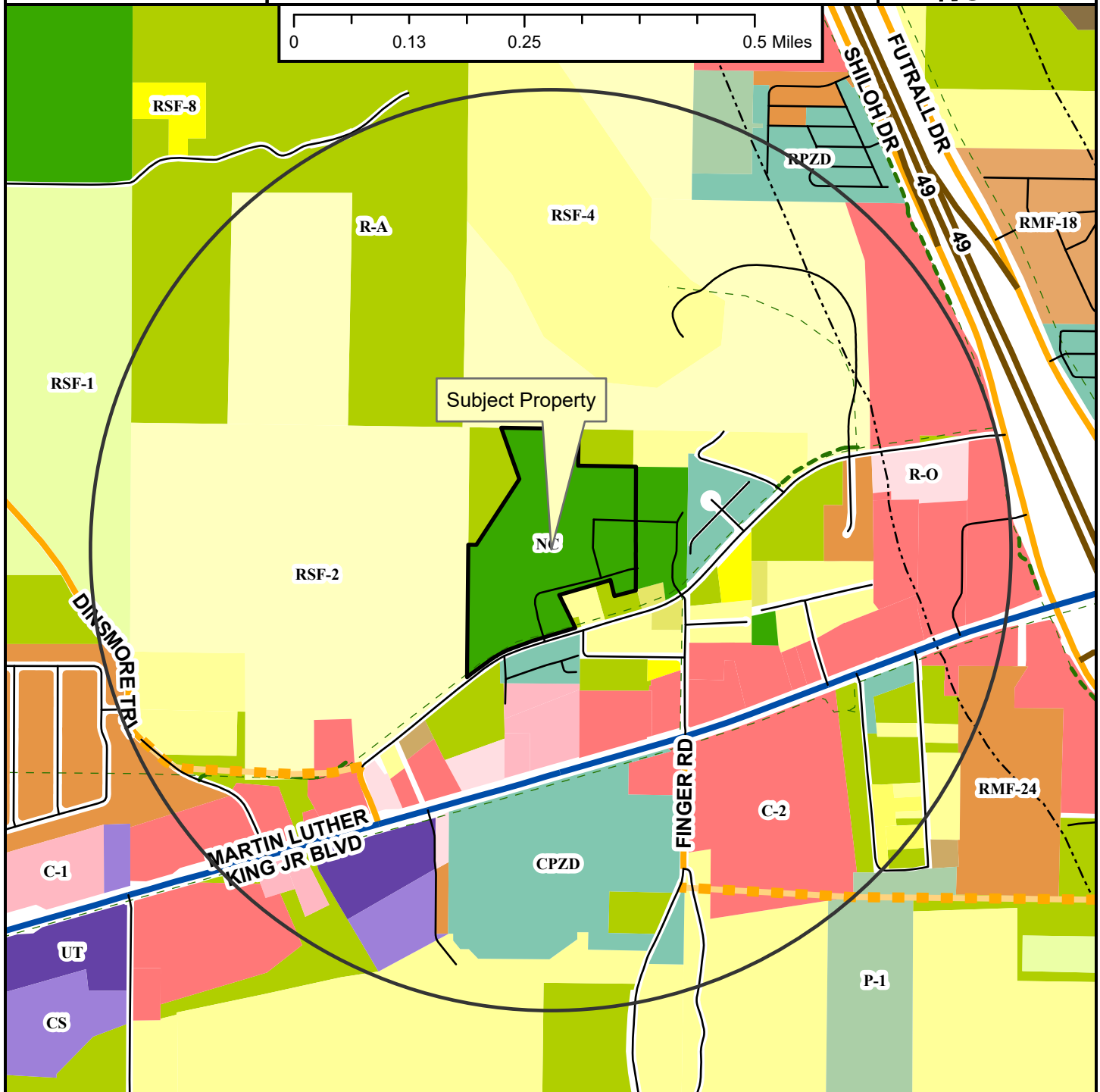


Brian Teague - Community By Design

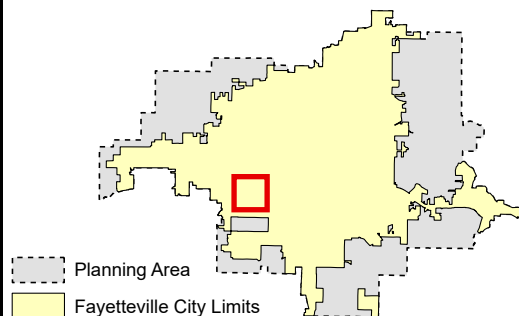
100 West Center Street Suite 300
Fayetteville, AR 72701

479.790.6775
Planning Commission

August 14, 2023



-  Neighborhood Link
-  Regional Link - High Activity
-  Freeway/Expressway
-  Unclassified
-  Alley
-  Residential Link
-  Planned Neighborhood Link
-  Shared-Use Paved Trail
-  Trail (Proposed)
-  Design Overlay District
-  Fayetteville City Limits
-  Planning Area

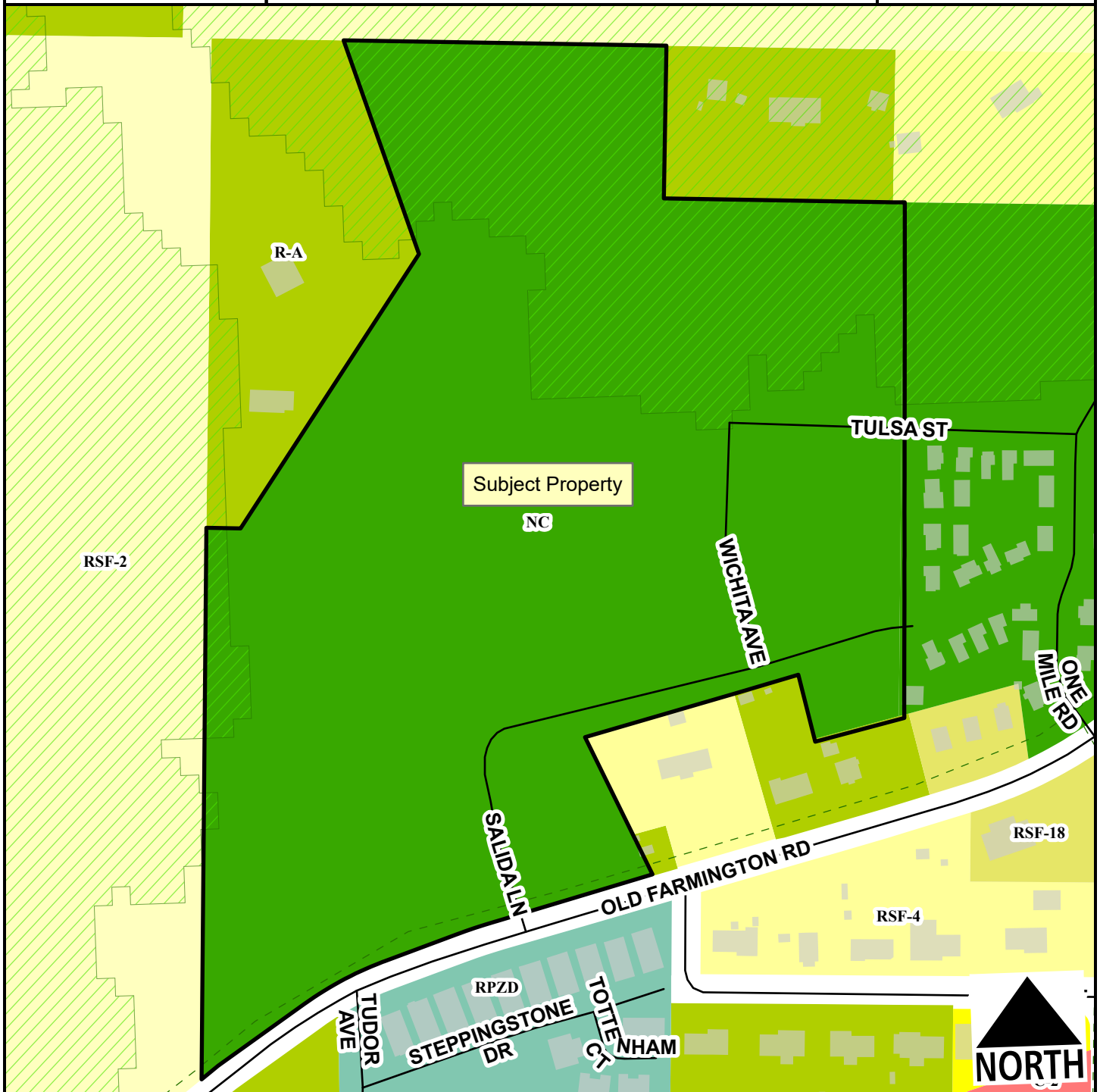


-
- Zoning**
- I-2 General Industrial
 - E-1 Commercial
 - I-1 Heavy Commercial and Light Industrial
- RESIDENTIAL SINGLE-FAMILY**
- NS-G
 - RI-U
 - RI-12
 - NS-L
 - Residential-Agricultural
 - RSF-5
 - RSF-1
 - RSF-2
 - RSF-4
 - RSF-7
 - RSF-8
 - RSF-18
- COMMERCIAL**
- Residential-Office
 - C-1
 - C-2
 - C-3
- FORM BASED DISTRICTS**
- Downtown Core
 - Urban Thoroughfare
 - Main Street Center
 - Downtown General
 - Community Services
 - Neighborhood Services
 - Neighborhood Conservation
- PLANNED ZONING DISTRICTS**
- Commercial, Industrial, Residential
- INSTITUTIONAL**
- P-1

ADM-2023-0031

3120 W. OLD FARMINGTON RD.

Close Up View



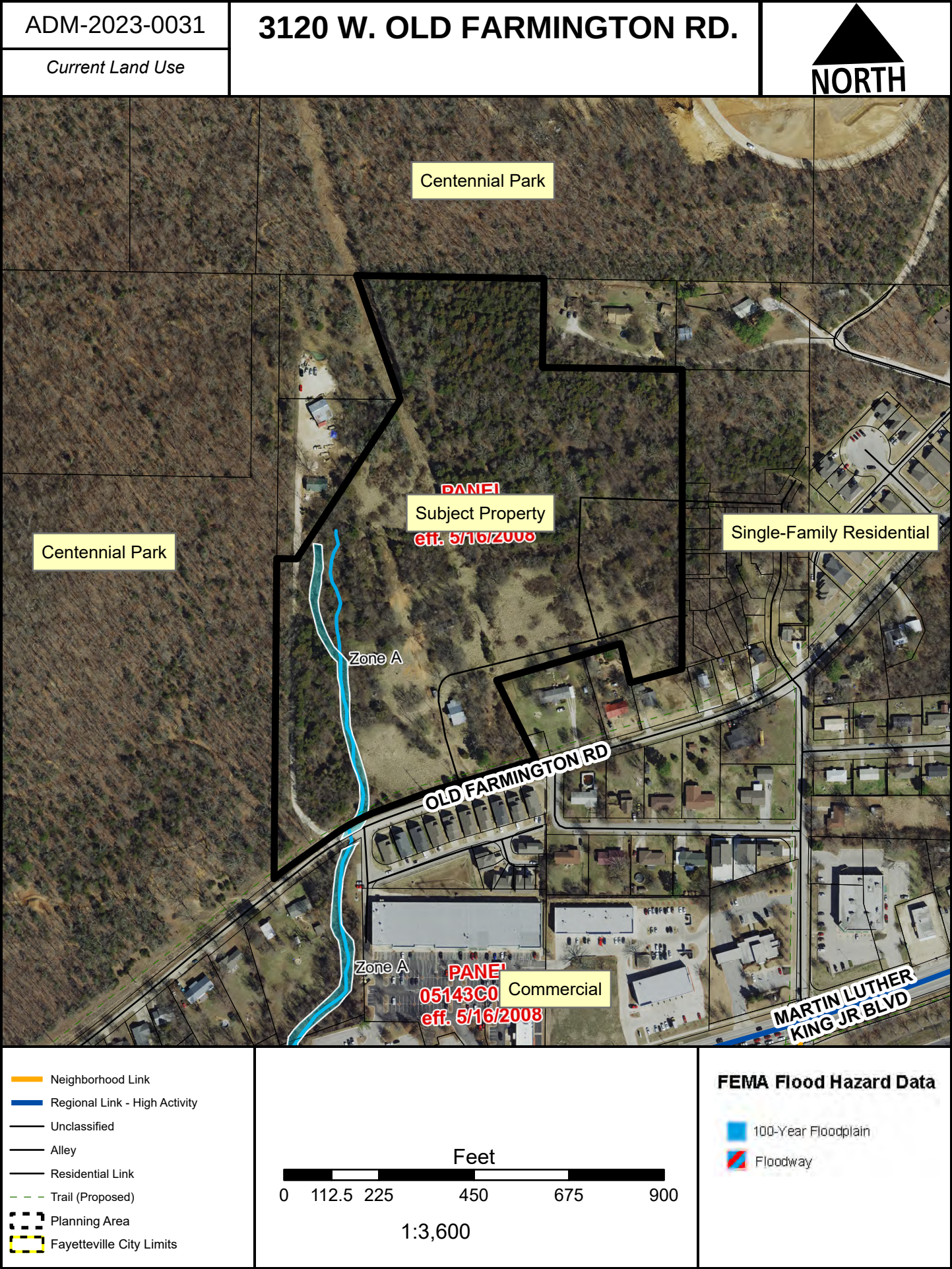
- Unclassified
- Residential Link
- Hillside-Hilltop Overlay District
- Planning Area
- Fayetteville City Limits
- Trail (Proposed)

Feet
0 75 150 300 450 600
1:2,400

- Residential-Agricultural
- RSF-2
- RSF-4
- RSF-8
- RSF-18
- C-2
- Neighborhood Conservation
- Commercial, Industrial, Residential

Planning Commission

August 14, 2023





TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Senior Planner

MEETING DATE: August 14, 2023

SUBJECT: **ADM-2023-0030: Administrative Item (4698 E. MISSION BLVD./ELLIS ESTATES SUBDIVISION, 297):** Submitted by BLEW & ASSOCIATES for property located at 4698 E. MISSION BLVD. The property is in the FAYETTEVILLE PLANNING AREA and contains approximately 24.96 acres. The request is for an extension of a previously approved preliminary plat.

RECOMMENDATION:

Staff recommends approval of **ADM-2023-0030** with conditions.

RECOMMENDED MOTION:

*"I move to approve **ADM-2023-0030** with conditions as recommended by staff."*

BACKGROUND:

The subject property is located on the north side of Mission Boulevard about a mile outside of city limits in unincorporated Washington County. The property contains approximately 24.96 acres and is currently undeveloped with mature tree canopy covering about half of the site. A preliminary plat for a 58-lot residential subdivision, referred to as Ellis Estates, was approved by the Planning Commission in August of 2021 (PPL-2021-000011). An administrative extension was granted in August of 2022 which extended the project's approval by one year until August 9, 2023. Surrounding land uses and zoning are depicted in *Table 1*.

Table 1:
Surrounding Land Uses and Zoning

Direction	Land Use	Zoning
North	Rural Residential	AG/SF-1, Agricultural Single-Family Residential – 1 Unit per Acre (Washington County)
South	Rural Residential	AG/SF-1, Agricultural Single-Family Residential – 1 Unit per Acre (Washington County)
East	Rural Residential	AG/SF-1, Agricultural Single-Family Residential – 1 Unit per Acre (Washington County)
West	Rural Residential	AG/SF-1, Agricultural Single-Family Residential – 1 Unit per Acre (Washington County)

Request: The applicant is requesting a one-year extension to their preliminary plat approval which expired on August 9, 2023. The applicant submitted a letter requesting the extension on July 18, 2023, within the time limit that they are allotted per UDC §166.20, Expiration of Approved Plans and Permits.

Public Comment: Staff has received inquiries about this item but no public comment in support or opposition to the requested extension.

DISCUSSION:

Staff recommends approval of the applicant's extension request. The request was received before August 9, 2023, which is the deadline for the applicant to request that the Planning Commission extend the project's approval for up to one additional year. The applicant has cited delays related to the design of the sanitary sewer system for the subdivision as their reason for requesting an additional one-year extension. Since the applicant has stated that the sanitary sewer system is likely to be fully designed and approved by the State within the next six months, staff finds that granting the requested extension will allow the project to continue moving forward.

RECOMMENDATION: Staff recommends approval of **ADM-2023-0030** with the following conditions:

Conditions of Approval:

1. A one-year extension for PPL-2021-000011 will expire on August 9, 2024;
2. All other conditions of approval associated with the preliminary plat that are not affected by this extension shall remain in effect; and
3. Approval of this preliminary plat extension does not constitute approval of associated permits or entitlements not fully reviewed at this time.

PLANNING COMMISSION ACTION:			
Required	<u>YES</u>		
Date: <u>August 14, 2023</u>	☐ Tabled	☐ Approved	☐ Denied
Motion:			
Second:			
Vote:			

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

- Unified Development Code
 - §166.20 Expiration of Approved Plans and Permits
- PPL-2021-000011 Conditions of Approval
- Applicant Request Letter
- One Mile Map
- Close-Up Map
- Current Land Use Map

166.20 Expiration Of Approved Plans And Permits

(A) Applicability. The provisions of this section apply to all of the following plans and permits:

- (1) Preliminary plats;
- (2) Planned zoning district developments;
- (3) Conditional uses;
- (4) Large-scale developments;
- (5) Lot splits;
- (6) Physical alteration of land permits;
- (7) Storm water, drainage, and erosion control permits;
- (8) Tree preservation plans; and
- (9) Floodplain development permits.

(B) Time Limit.

- (1) Tasks to Be Completed. All of the above-enumerated plans and permits are conditioned upon the applicant accomplishing the following tasks within one (1) year from the date of approval:
 - (a) For any renovation or new construction, receive all building permits for the project; and/or,
 - (b) For a Planned Zoning District, comply with the approved phasing plan; and/or
 - (c) For a lot split, record a deed or survey at the Washington County Circuit Clerk's Office, stamped for recordation by the City Planning Division; and/or,
 - (d) Receive a business license; and/or,
 - (e) Receive all permits and approvals required by city, county, state, and federal regulations to complete construction of the development or project.
- (2) Administrative Extension Within One (1) Year. Prior to the expiration of the one (1) year time limit, an applicant may request the Zoning and Development Administrator to extend the period to accomplish the tasks by up to one (1) additional year. The applicant has the burden to show good cause why the tasks could not reasonably be completed within the normal one (1) year limit. Extensions that are not permitted administratively may be requested of the Planning Commission within ten (10) days of the final administrative decision.
- (3) Planning Commission Extension Within Eighteen (18) Months. Should an applicant miss the deadline to request an administrative extension, within eighteen (18) months of the date of approval the applicant may request the Planning Commission to extend the period up to one (1) additional year from the original date of approval, subject to the burden of showing good cause as described in this section.
- (4) Planning Commission Extension. Prior to the expiration of any allowed extension period (maximum of two (2) years from the date of original approval), an applicant may request the Planning Commission to extend the period to accomplish the tasks by up to one (1) additional year, if the plans and permits are substantially the same as those originally approved. The applicant has the burden to show good cause why the tasks could not reasonably be completed within the normal one (1) year limit and the permitted extension period. Extensions beyond three (3) years from the original date of approval shall not be permitted.
- (5) Ordinance Amendments. To receive approval of an extension, the applicant shall comply with all applicable zoning and development requirements that have been adopted subsequent to the original project approval. Projects that must be substantially modified to meet new code requirements are subject to Ch. 166.05(F) Modifications.
- (6) Variances. Variances from applicable zoning and development requirements that have been adopted subsequent to the original project approval shall be reviewed by the Planning Commission prior to approval of the extension.
- (7) Expiration. If the required task(s) are not completed within one (1) year from the date of approval or during an allowed extension period, all of the above-enumerated plans and permits shall be rendered null and void.

(C) Three (3) Year Time Limit.

- (1) Tasks to Be Complete. All of the above-enumerated plans and permits are also conditioned upon the applicant completing the project and receiving final inspection approval and/or a final Certificate of Occupancy permit within three (3) years from the date of issuance of a building permit or receipt of all permits and approval required to complete construction of the project.
- (2) Extensions. Prior to the expiration of the three (3) year time limit, an applicant may request the Planning Commission to extend the three (3) year period to complete the project by up to two (2) additional years. The applicant has the burden to show good cause why the project could not reasonably be completed within the three (3) year time limit.
- (3) Expiration. If the applicant fails to meet the requirements of subsection (C)(1) within three (3) years from the date of issuance of a building permit/receipt of all permits and approval required or during an allowed extension period, all of the above-enumerated plans and permits shall be rendered null and void.

(Ord. No. 5155, 7-15-08); Ord. No. 5425, 8-2-11)

PPL-2021-000011 Conditions of Approval:

1. Planning Commission approval of a variance to UDC §166.08 (E)(1)(c) the Residential Link block length and connectivity requirements.
2. Planning Commission determination of street improvements:
 - a. *The internal streets shall be constructed as depicted on the proposed preliminary plat in accordance with the Master Street Plan for a Residential Link including right-of-way dedication of 52 feet for the internal streets, 6-foot sidewalk, 6-foot greenspace, 1.5-foot curb and gutter, and street trees;*
 - b. *E. Mission Boulevard shall be improved with a 6-foot sidewalk at the typical edge of the Master Street Plan Residential Link street section (26 feet from centerline), with the remaining 7.5 feet of space to the existing curb to be greenspace;*
3. Approval of a conditional use permit issued by the Washington County Quorum Court for development of a subdivision with lots less than the county one-acre minimum;
4. Washington County Planning approval required prior to City of Fayetteville grading permit approval.
5. Streetlights shall be installed in accordance with code at all street intersections and spaced every 300 feet;
6. A future street extension sign shall be installed prior to final plat at all stub-outs.
7. Conditions of approval from Engineering, Urban Forestry, and Parks Department are included in the official conditions of approval;
8. Preliminary plat approval is valid for one year. All permits to complete construction for all lots within this preliminary plat are required to be obtained within one (1) year, subject to extensions in accordance with the Unified Development Code; and
9. The following revision(s) shall be made prior to approval of a grading permit:
 - a. Label all street classifications on the site plan (Residential Link);
 - b. Shift sidewalk to what would be the typical edge of the Master Street Plan right-of-way for a Residential Link Street; 26' from CL. Extend sidewalk to east/west property lines;
10. All existing overhead utility lines 12kV and under shall be relocated underground. All proposed utilities shall be located underground;
11. Sidewalk along all commonly owned lots (detention ponds, etc.) shall be constructed prior to final plat. All other sidewalks shall be constructed or guaranteed prior to final plat;
12. All street names shall be approved by the 911 Coordinator and indicated on the final plat. All streets require naming for final addresses. Contact the addressing office at (479) 575-8380 for more details;
13. All lots shall be labeled with addresses as approved by the 911 Coordinator on the final plat;

14. A floodplain development permit is required prior to construction for any grading or structures in the flood zone;
15. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his/her representative, and all comments from utility representative: Black Hills Energy, AT&T, Ozarks, SWEPCO, Cox Communication);
16. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements; and
17. Preliminary Plat approval shall be valid for one calendar year.

BLEW & ASSOCIATES, PA
CIVIL ENGINEERS & LAND SURVEYORS

July 17, 2023

City of Fayetteville
125 W. Mountain Street
Fayetteville, AR 72703
c/o Planning Commission

SUBJECT: Ellis Estates Subdivision
PPL-2021-000011

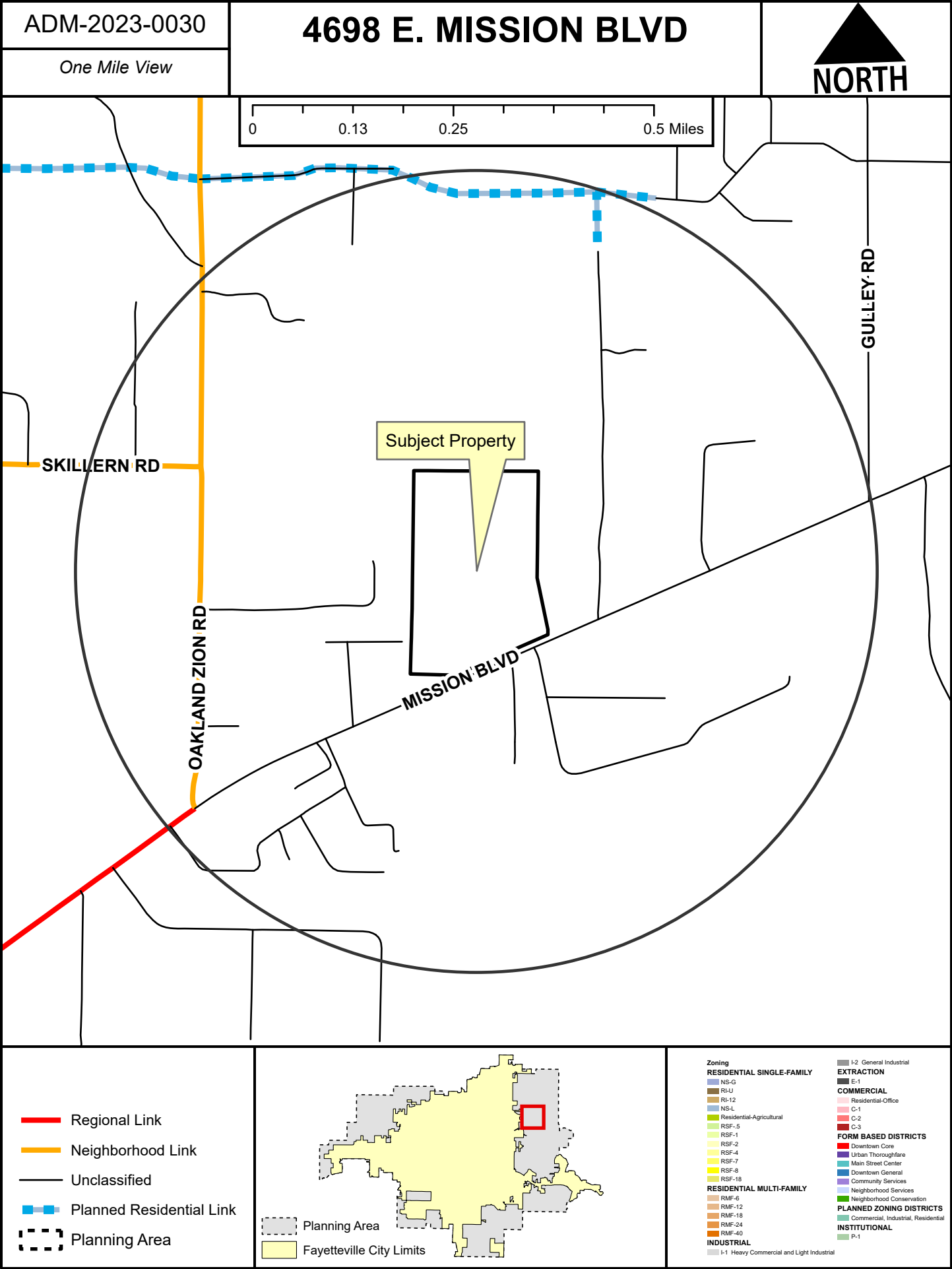
To Whom It May Concern:

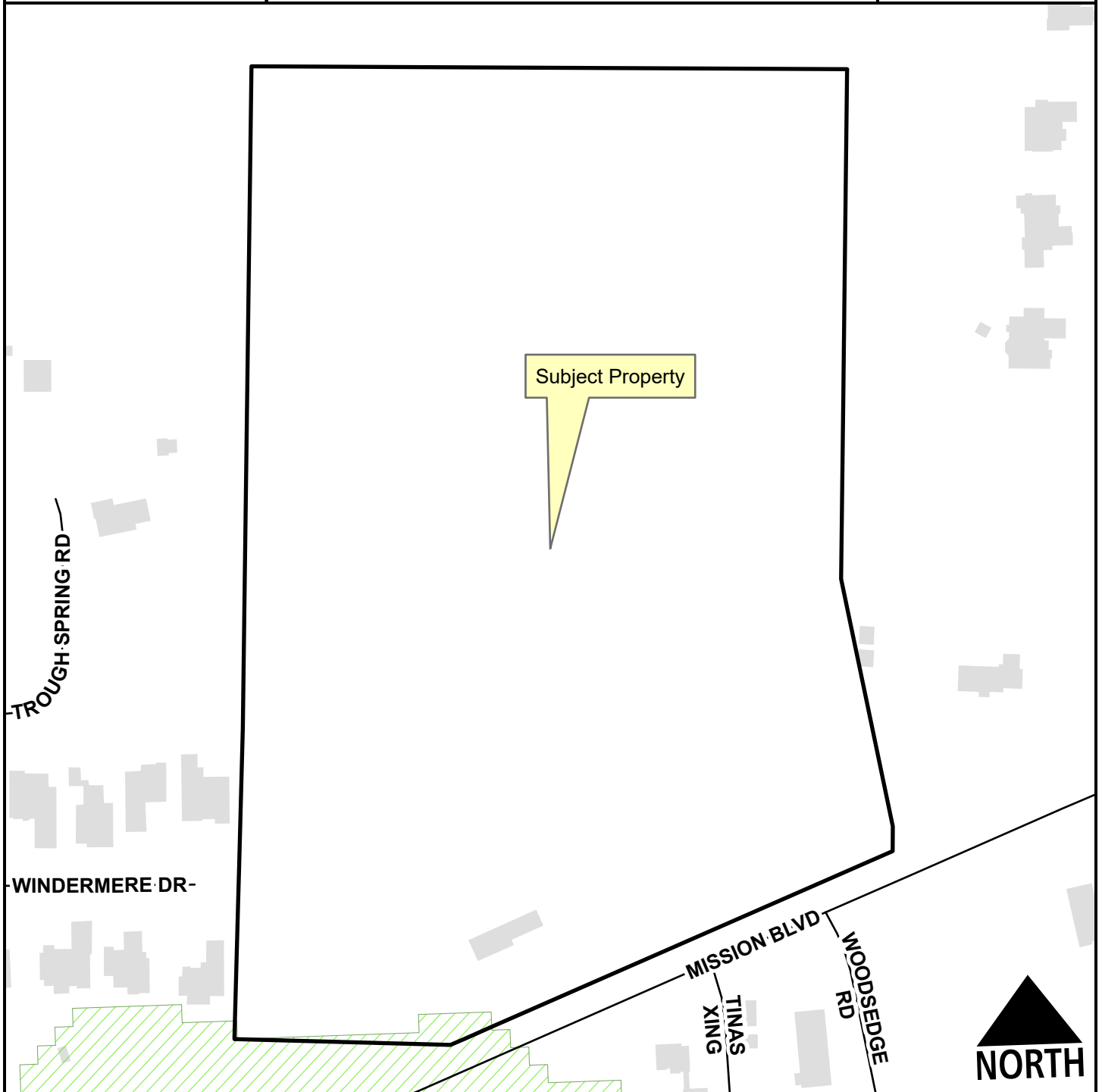
Ellis Estates Fayetteville, LLC is requesting a one year extension on the approval of the Ellis Estates Subdivision. Our consultant who was designing the sanitary sewer system for the design was unable to begin the design after months of follow up. We were then forced to transfer to a different consultant for the revised design which has been in process since December 2022. At the time, they let us know that the design would take up to one year for final approval. They are still in the process of approval, and as such, as of today, they tell us that the design will be completed in 3 months. But at that time, it gets submitted to the state which they have no control of the time line on. Since we feel reasonably sure that the sanitary sewer system will be approved within the next 6 months, we are requesting a one year time extension.

Sincerely,

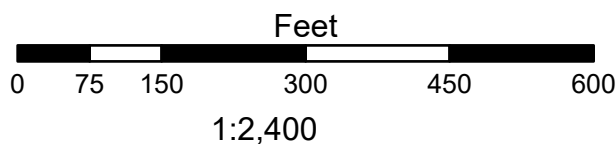


Jorge Du Quesne
Blew & Associates, PA





- Unclassified
- Hillside-Hilltop Overlay District
- Planning Area



ADM-2023-0030

4698 E. MISSION BLVD

Current Land Use



— Unclassified
--- Planning Area



FEMA Flood Hazard Data

100-Year Floodplain
Floodway



TO: City of Fayetteville Planning Commission

FROM: Jessie Masters, Development Review Manager
Melissa Boyd, Staff Engineer
Melissa Evans, Urban Forester

MEETING DATE: August 14, 2023

SUBJECT: **VAR-2023-0022: Planning Commission Variance (216 N. LOCUST AVE/DICKSON SQUARE LLC, 556):** Submitted by ECOLOGICAL DESIGN GROUP INC for property located at 216 N. LOCUST AVE. The property is zoned DG, DOWNTOWN GENERAL and contains approximately 0.60 acres. The request is for variances to residential design standards, typical sidewalk width requirement, and master street plan requirements.

RECOMMENDATION:
Staff recommends denial of **VAR-2023-0022**.

RECOMMENDED MOTION:
"I move to deny VAR-2023-0022."

BACKGROUND:

The subject property is in downtown Fayetteville on Locust Avenue, approximately halfway between Dickson and Spring Streets. Containing three separate parcels for a total of 0.60 acres, the property in question is zoned DG, Downtown General, and is currently developed with three single-family dwellings. Under permitting review currently, the applicant is proposing to construct a multi-family structure and associated parking and amenities. Surrounding land uses and zoning are listed in *Table 1*.

Table 1 - Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Single-Family Residential	DG, Downtown General
South	Single-Family Residential	DG, Downtown General
East	Mixed-Density Residential	MSC, Main Street Center
West	Mixed-Density Residential	DG, Downtown General

Request: The applicant is requesting three variances to the unified development code in conjunction with the development of a multi-family structure with associated parking and other amenities.

DISCUSSION:

Variance #1: §171.14(A)(2)(a) and (b), the minimum width of sidewalks shall follow the guidelines of the Master Street Plan, with a minimum effective width of 5 feet. Effective width is the actual sidewalk width less a shy distance of 2 feet where vertical barriers

greater than 3.5 feet in height are adjacent to the sidewalk. Further, a shy distance of 1.5 feet for curb adjacent to the sidewalk is required. The applicant is requesting an effective width of 2.75 feet with the construction of a sidewalk that is 6.25 feet wide.

Staff recommendation: On the balance of considerations, staff recommends denial of the request. The intent of the ordinance is to provide safe and effective pedestrian access on public sidewalks, and to allow for the provision of pedestrians to walk side by side or to pass one another without needing to step off the sidewalk into a street, or onto private land. The applicant has not provided a site-specific hardship for why the ordinance cannot be met, and staff does not find that allowing for the variance would still meet the spirit and intent of the code. While the applicant states a desire to maintain an historic wall, there are no conflicting ordinances that would require the wall to stay in place, including tree preservation. Upon review by the Urban Forester, the only trees that the applicant intends to preserve are located along the Locust Avenue frontage, behind the existing retaining wall. However, the Urban Forester does not have the information needed to ensure that those trees will indeed be preserved given the existing construction plans, and even with those trees being preserved, the applicant is not fully meeting the minimum 10% requirement in the DG, Downtown General zoning district. Further, the Engineering Division has found structural issues with the existing wall, therefore showing no guarantee that the wall would be able to be maintained for the duration of construction. Also, the applicant intends to use the length of the property's frontage for aerial apparatus access; in order for this to function appropriately and maintain the 26-foot width necessary, on-street parking will have to be removed for the entire frontage, a total of approximately 8 parking spaces that are managed through the residential parking program. The Parking Division has not provided an approval or acceptance that this number of spaces could be removed without major disruption to the neighborhood. With layered considerations, staff finds that the applicant may be overdeveloping the site given its current surroundings and affordances.

Variance #2: §166.23(C)(4)(a), Ground floor dwelling units adjacent to the public street shall have a primary pedestrian entry that is visible from the street, and the entry shall connect unobstructed to the public sidewalk where sidewalk exists in a manner to allow occupants to access from the interior of the structure to the City sidewalk. The applicant is requesting two pedestrian connections to provide access to the site, rather than a direct connection for each unit.

Staff recommendation: Staff recommends in favor of the request, if Planning Commission chooses to approve the sidewalk width variance. A preference to minimize pedestrian connections is reasonable if retaining walls on the site are to be maintained in their existing position. Architecturally, staff finds the spirit and intent of the ordinance is still being met by providing active space in the property's front façade, as well as multiple doors and openings which will positively contribute to the pedestrian realm. However, staff recommends denial of this request if the sidewalk variance above is not approved.

Variance #3: §166.04(A)(2), Any required on or off-site improvements in the city and within one (1) mile of the city limits shall be installed according to the city's standards; The applicant is requesting to improve a public alley with a non-standard cross-section.

Staff recommendation: Staff recommends denial of the request. The applicant is requesting to construct a 12-foot wide alley for two-way directional access. Staff finds that this would not supply adequate space for two vehicles to pass and will likely cause issues in the future. Under the requirements in 6.1.4 of the Minimum Street Standards, exemptions for alley standards are only permitted if the grade is less than 5%; in this instance the grade of the alley is approximately 8.6%, which requires typical standards. A residential two-way alley per the Master Street Plan typically requires two 7-foot drive lanes, as well as additional 1-foot concrete and 2-foot greenspace on each side to allow for vehicles to maneuver around each other safely. Staff finds that this proposal is insufficient and will likely contribute to issues, especially with the applicant's planned solid waste proposal and dumpster access. Given that this is the only point of vehicular access to the site, and the added impact a development of this scale will bring, staff

is recommending to deny.

Public Comment: Staff has received inquiries regarding this request, with concerns about the applicant's stated request to use the property as short-term leases.

RECOMMENDATION: Staff recommends Planning Commission deny VAR-2023-0022. If Planning Commission chooses to approve, staff recommends the following conditions:

Conditions of Approval:

1. **Planning Commission determination of a variance to §171.14(A)(2)(a) and (b), the minimum width of sidewalks shall follow the guidelines of the Master Street Plan, with a minimum effective width of 5 feet.** *Staff recommends denial of the request for the reasons stated above.*
2. **Planning Commission determination of a variance to §166.23(C)(4)(a), Ground floor dwelling units adjacent to the public street shall have a primary pedestrian entry that is visible from the street, and the entry shall connect unobstructed to the public sidewalk where sidewalk exists in a manner to allow occupants to access from the interior of the structure to the City sidewalk.** *Staff recommends approval of this request, conditioned upon approval of variance number one. Otherwise, staff recommends denial for the reasons stated above.*
3. **Planning Commission determination of a variance to §166.04(A)(2), Any required on or off-site improvements in the city and within one (1) mile of the city limits shall be installed according to the city's standards.** *Staff recommends denial of this request for the reasons stated above.*
4. Approval of this variance does not represent overall development entitlement approval for the project, nor grant approval for any associated grading or building permits, nor does it grant final approval of certificate of occupancy.

PLANNING COMMISSION ACTION:			
Required	<u>YES</u>		
Date: <u>August 14, 2023</u>	☐ Tabled	☐ Approved	☐ Denied
Motion:			
Second:			
Vote:			

BUDGET/STAFF IMPACT:

None

Attachments:

- Unified Development Code:
 - §166.04 Required Infrastructure Improvements — Development In City Limits
 - §166.23 Urban Residential Design Standards
 - §171.14 Sidewalk, Driveway And Trail Specifications

- Urban Forestry Memo
- Engineering Memo
- Applicant Request letter
- Applicant Exhibits
- One Mile Map
- Close-up Map
- Current Land Use Map

166.04 Required Infrastructure Improvements — Development In City Limits

(A) *Generally.* Required of developer.

- (1) *On and Off-Site Improvements.* On-site improvements are adjacent to or within a project site; such as widening the street along the project street frontage, constructing interior streets and utilities, etc. Off-site improvements are not adjacent to a project; such as the extension of an off-site sewer line to the property boundary, off-site storm drainage improvements, or an off-site intersection improvement, etc.
- (2) *Standards Applicable.* Any required on or off-site improvements in the city and within one (1) mile of the city limits shall be installed according to the city's standards; provided on or off-site improvements to roads located outside one mile of the city limits shall be installed to the county's standards. The developer shall be required to bear that portion of the cost of off-site improvements which bears a rational nexus to the needs created by the development.
- (3) *Required Infrastructure Improvements.* On and off-site improvements that are roughly proportional and bear a rational nexus to the impact of the development are required for all development within the City of Fayetteville. The developer shall be required to install on and off-site improvements where the need for such improvements is created in whole or in part by the proposed development.
- (4) *Planning Commission and Planning Division.* At the time the Planning Commission or Planning Division (where applicable for administrative approval) grants development approval, the Planning Commission or Planning Division shall determine whether the proposed development creates a need for off-site improvements and the portion of the cost of any needed off-site improvements which the developer shall be required to bear; provided, that portion of the cost of off-site improvements to roads located outside the city's corporate limits but within the city's planning area shall be determined by the county. In determining that portion of the cost of off-site improvements which the developer shall be required to bear, the Planning Commission or Planning Division (where applicable for administrative approval) shall consider the acreage within the proposed development as a percentage of all the acreage which, when fully developed, will benefit from the off-site improvements; provided, the Planning Commission or Planning Division may use a different method of measurement if it determines that use of the acreage standard will not result in the developer bearing that portion of the cost which bears a rational nexus to the needs created by the development.

...

(Code 1965, App. C., Art. III, §A(2), (3); Ord. No. 1979, 2-5-74; Ord. No. 2353, 7-5-77; Ord. No. 2755, 9-1-81; Code 1991, §§159.31, 159.32; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4263, 8-1-00; Ord. No. 4660, 12-21-04; Ord. No. 5152, 7-15-08; Ord. No. 5271, 9-1-09; Ord. No. 5296, 12-15-09; Ord. No. 5374, 12-21-10; Ord. No. 5523, 9-4-12; Ord. No. 5570, 03-05-13; Ord. No. 6116, §1, 11-20-18; Ord. No. 6166, §§1, 2, 4-2-19; Ord. No. 6195, §1, 6-4-19; Ord. No. 6350, §3(Exh. B), 8-18-20; Ord. No. 6426, §1, 4-6-21; Ord. No. 6446, §8(Exh. C), 6-15-21)

166.23 Urban Residential Design Standards

(A) *Purposes.*

- (1) To protect and enhance Fayetteville's appearance, identity, and natural and economic vitality.
- (2) To create appealing street scenes so that development enhances the image of the city and provides safe, pedestrian-friendly neighborhood environments.
- (3) To minimize service and parking impacts in order to preserve surrounding property values and scenic resources that contribute to the city's economic development.
- (4) To compose attractive residential facades that enhance the economic viability of and provide compatibility with surrounding property.

...

(4) *Pedestrian Circulation.*

- (a) Ground floor dwelling units adjacent to a public street shall have a primary pedestrian entry that is visible from the street. This entry shall connect unobstructed to the public sidewalk where sidewalk exists in a manner to allow occupants to access from the interior of the structure to the city sidewalk. The connection shall match the sidewalk in material type and shall be at least 3 feet in width unless otherwise approved by the Zoning and Development Administrator in writing. The entry may be gated and shared but must occur at a spacing of no fewer than one (1) entrance for every two (2) street level dwellings. The pedestrian connection to the street may run from the door along the façade of the building parallel to the street for a maximum of 12 feet from the door before connecting directly to the public sidewalk.
- (b) Urban residential projects shall incorporate pedestrian connections to adjacent residential and commercial properties where sidewalks exist unless this requirement is otherwise waived by the Planning Commission.

171.14 Sidewalk, Driveway And Trail Specifications

(A) *Sidewalks.*

- (1) *Grades; Establishment of Property Lines.* All sidewalks, access ramps, and driveway approaches shall be constructed in grades as approved by the City Engineer. It shall be the responsibility of the owner to establish property lines by competent survey at his/her own expense.
- (2) *Minimum Width of Sidewalks.* The minimum width of sidewalks shall follow the guidelines of the Master Street Plan, of the Comprehensive Land Use Plan. In all cases, the effective width of the sidewalk shall be a minimum of 5 feet. Effective sidewalk width is the actual sidewalk width, less:
 - (a) A shy distance of 2 feet where vertical barriers (walls, fences, signs, etc.) greater than 3.5 feet in height are adjacent to the sidewalk and extend more than 4 feet in length parallel to the sidewalk.
 - (b) A shy distance of 1.5 feet for curb adjacent to the sidewalk.
 - (c) A shy distance of 1 foot for all other fixed obstacles.The greatest of the above distances shall apply for each side of the walk.
- (3) *Sidewalk Distances from the Curb.* The sidewalk setback distance from the curb shall follow the guidelines of the Master Street Plan, or be as specified in the final plat unless otherwise approved by the City Engineer.
- (4) *ADA Guidelines.* Sidewalks within rights of way shall conform to ADA guidelines.
- (5) *Sidewalk Elevation.* The back of sidewalk elevation shall be such that the slope from the back of sidewalk to the top of curb is 2%, unless otherwise approved by the City Engineer. This elevation shall be continuous through the driveway approach.
- (6) *Inspection.* All sidewalks and curb cuts made for driveway approaches require an inspection prior to the concrete placement.



Planning Commission Memo

TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Melissa Evans, Urban Forester

MEETING DATE: August 14, 2023

SUBJECT: **VAR-2023-0022: Variance (216 N. Locust Ave.)** Submitted by EDG for property located at 216 N. Locust. The property is zoned DG, DOWNTOWN GENERAL, and contains approximately 0.592 acres. The request is for a variance to Section 171.14(A) and 166.23(C) of the Unified Development Code.

RECOMMENDATION:

Urban Forestry Staff has reviewed VAR-2023-0022 which would allow the property owner to not follow sections of Code regarding sidewalk shy distances along vertical barriers in order to preserve an existing historic rock retaining wall that runs along the properties' street frontage of Locust. It would also allow the property owner to not provide all ground floor dwelling units adjacent the street with pedestrian access to the street due to the change in elevation. Providing the pedestrian access per Code may be detrimental to the existing trees and rock wall, however, the Tree Preservation Plan shows only two trees being preserved in the entire project area and they are not directly adjacent to the rock wall.

Urban Forestry prefers the existing trees be preserved since the applicant is willing to make the effort and large mature trees are difficult to preserve and replace in the downtown areas. It is not clear what type of trees they are though or what condition they are in as this information is missing from the plan. The percentages for tree removal and preservation are not on the plan either, though from rough calculations by Urban Forestry Staff, it looks like this site would be going from an existing tree canopy of over 50% to 3% preserved canopy (with a preservation requirement of 10% for DG zoning).



2 DEMOLITION & TREE PRESERVATION PLAN SOUTH SCALE 1" = 10'

1 DEMOLITION & TREE PRESERVATION PLAN
NORTH
SCALE: 1" = 10'

What trees are being preserved?

Reviewed By:
Melissa Evans, Urban Fo
City of Fayetteville
479-444-3186 m.evans@fayetteville-ar.gov
04.15.2013.025

NORTH

Category	Value
Category 1	10
Category 2	10



TO: Jessie Masters, Development Review Manager

FROM: Melissa Boyd, Staff Engineer

DATE: August 9, 2023

SUBJECT: **Planning Commission Engineering Comments for
VAR-2023-0022 216 N. LOCUST AVE**

The applicant is requesting a variance to UDC §171.14(A)(2)(a) to not require a shy distance of 2 feet where vertical barriers greater than 3.5 feet in height are adjacent to and extend more than 4 feet in length parallel to the sidewalk and UDC §171.14(A)(2)(b) to not require a shy distance of 1.5 feet for curb adjacent to the sidewalk. Current code states in all cases, the minimum effective sidewalk width shall be 5 feet, and a 6.25 feet wide sidewalk is being proposed. The effective width of the 6.25 feet wide sidewalk along the 170 feet project frontage is 2.75 feet when accounting for the reductions outlined in subsections (a) and (b).

The request to not require the 2 feet shy distance states a desire to protect and maintain an existing wall that contributes to the character of downtown Fayetteville. At this time, it is not clear to staff how the buildings will be constructed without adverse impact to the wall due to the proximity of the proposed structures to the wall, although the request indicates that the wall will be protected by construction fencing and structurally deficient areas will be repaired. Visual inspection of the wall indicates that it is not uniform in material along the project frontage and has existing structural deficiencies that may require repair and/or replacement of portions of the wall. Four photos of the existing wall with descriptions are on the pages following this memo. A photo of a similar rock wall further south on Locust Avenue is included on the last page depicting what can happen when old rock walls fail, causing portions of the wall to collapse into the right-of-way.

Additionally, the applicant does not want to provide the 1.5 feet of shy distance adjacent to the curb, citing that they have been authorized to remove the on-street parking on both sides of Locust Avenue; however, staff has not received this approval. Staff has concerns that a 26 feet wide, 170 feet long segment of a one-way street has the potential to create unsafe conditions where vehicles speed because there would not be opposing vehicular traffic. Today, there is on-street parking on both sides with the drive lane in the middle, which creates a buffer between vehicles and pedestrians. The 26 feet width is required by Fire Code for aerial apparatus access for buildings that are over 30 feet in height. Staff has not seen an effort made to provide aerial apparatus access on the site itself, and the proposed buildings exceed 30 feet in height not accounting for the elevation differences between the street and site.

Based on the request and the additional information needed regarding the existing condition of the wall, staff does not support the variance request to the remove 2 feet and 1.5 shy distances at this time. Staff recommends the minimum 5 feet effective width be required and this cannot be achieved with the wall in its existing location and the 6.25 feet sidewalk proposed at back of curb.

The applicant is also requesting a variance to UDC §166.08(G)(1) to provide nonconforming access to the site. There is a platted 12 feet right-of-way that connects to Spring Street between Locust Avenue and Church Avenue that contains an existing driveway they are proposing to extend north to serve this development. The total driveway length in the alley to the site from Spring Street would be approximately 120 feet. A 12 feet wide pavement section does not meet right-of-way or paved width requirements for two-way alley access, and none of the existing structures utilize the platted alley to access the site, so this is a condition being created with the development. With the intended use and the number of parking spaces shown for the site, staff has concerns with the ability for vehicles to safely enter and exit this property if there isn't adequate space provided for two vehicles to pass each other within the alley.

Photo 1:



The wall in front of 216 is constructed of what appears to be concrete blocks and wood, which does not match the material of the native stone walls in front of the existing structures at 212 and 210. The applicant has indicated that the wood portion of the retaining wall will be removed.

Photo 2:



Looking south, the existing tree near the shared property line between 216 and 212 appears to be pushing the top of the wall out, causing it to lean toward the sidewalk.

Photo 3:



The above is a view to the north from the stairs that lead to the existing structure at 212, which also indicates that this portion of the wall may have structural issues. This is the opposite end of the same wall shown Photo #.

Photo 4:



The above photo is of an area between the staircase that leads to 210 and the southern property boundary. The circled areas are examples of where it appears previous repairs have been made to this wall and the arrow points to a crack that may indicate additional structural issues with the wall.

Photo 5:



The above photo is of a wall located at the southeast corner of Rock Street and Locust Avenue that has had an area collapse into the right-of-way, and is similar in nature to the walls being requested to remain in place with this variance.

July 26, 2023

City of Fayetteville
Planning Commission
125 W. Mountain Street
Fayetteville, AR 72701
479.535.8233

EDG #: 22-066
PROJECT NAME: 216 N Locust Ave., Fayetteville, AR 72701
DEVELOPER: Dickson Square, LLC, 1410 East Rockwood Trail, Fayetteville, Arkansas

Project Narrative

The 216 N Locust Ave. project is located at 216, 212, and 210 N. Locust Ave. and consists of 3 parcels, 765-01694-000, 765-01697-000, 765-01698-000, totaling approximately 0.592 acres. The site design includes one building with units for short term leasing, site amenities, parking, underground detention, bocce ball courts and bike infrastructure.

EDG is requesting variances to Section 171.14.A, Section 166.23.C, Section 166.08.G of the Unified Development Code. The main goal of these requests is to preserve and maintain as much of the existing historic wall that is located along the project frontage on N. Locust Ave.

Variance Request

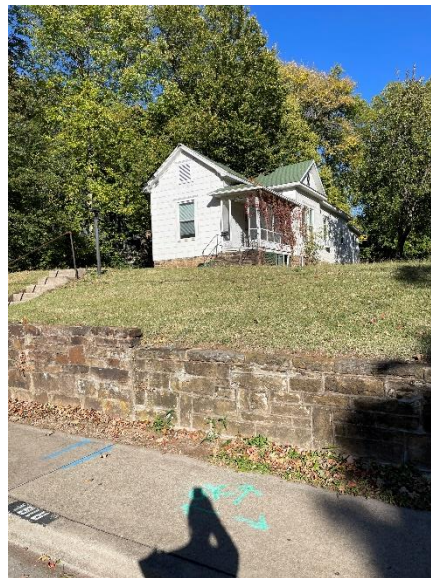
EDG is requesting the following variances:

- I. Variance to Unified Development Code Chapter 171, Section 171.14, Item A for the 216 N Locust Ave project to not require the shy distance of 2 feet where vertical barriers (walls, fences, signs, etc.) greater than 3.5 feet in height are adjacent to the sidewalk and extend more than 4 feet in length parallel to the sidewalk. Additionally, EDG is requesting a variance to not require 1.5 feet of shy distance for curb adjacent to sidewalk due to the adjacent topography of the street.
 - a. Justification: This site includes an existing rock retaining wall that runs along the street frontage of N Locust Ave. The design team is proposing to protect and maintain the existing wall to aid in the preservation of a historic feature that contributes to the character of downtown Fayetteville. The existing wall will be protected and maintained throughout the construction process by construction fencing and all wall portions with structural deficiency will be repaired. The wood top of the retaining wall on the northwestern edge of the property will be removed and the terrain graded back in a way that will not disturb the existing sugar maple trees.

Since this development has been authorized to remove on-street parking on both sides of N Locust Ave and the street is currently designated as one-way, the need for the 1.5 feet of shy distance from the curb is not needed. This requirement is intended to account for car doors opening within on-street parking spaces.

A 6' sidewalk at the back of curb is adjacent to the existing wall and does not currently meet the code provided above. In order to meet the current master street plan requirements, EDG is proposing a sidewalk that is a minimum of 6'-3" in width and that extends from the back of curb to the face of the existing wall. With the variance to the 1.5' shy distance from back of curb, the

effective width of the sidewalk would be 4'-3" after taking into account the shy distance from the existing retaining wall.



2. Variance to Unified Development Code Chapter 166, Section 166.23, Item C for the 216 N Locust Ave. project to not require ground floor dwelling units adjacent to a public street to have a primary pedestrian entry that is visible from the street.
 - a. Justification: The dwelling units along the western side of the proposed building are at least 7ft above the public sidewalk grade. The project is providing pedestrian connections via stairs at the north and south end of the property. Due to the significant grade differential between the proposed sidewalk and the finished floor of the proposed buildings, providing a direct connection would require multiple sets of stairs that would result in the demolition of the existing historic wall and potential damage to existing trees. Preservation of the existing wall and trees are a high priority for the project. The two stair connections at either end of the project from the public right-of-way met the general intent of the ordinance.
3. Variance to Unified Development Code Chapter 166, Section 08, Item G for the 216 N Locust project to not be required to widen the existing alleyway on the east side of the property. Currently, there is an alley easement wide enough to accommodate a 12' alley, as shown on the site plans. Since this alley is in

an easement, the alley has been shifted onto the property to allow for grading back to the property line so that a retaining wall is not required. Additionally, the adjacent property owners have built walls, fences, and buildings immediately adjacent to or in the existing easement. In an effort to maintain the neighboring structures, fences, and walls, this development is proposing a 12' alleyway to accommodate vehicles entering and exiting the site.

Code Sections:

I) 171.14.A – Sidewalk, Driveway And Trail Specifications

- I) Sidewalks.
 - a) Grades; Establishment of Property Lines. All sidewalks, access ramps, and driveway approaches shall be constructed in grades as approved by the City Engineer. It shall be the responsibility of the owner to establish property lines by competent survey at his/her own expense.
 - b) Minimum Width of Sidewalks. The minimum width of sidewalks shall follow the guidelines of the Master Street Plan, of the Comprehensive Land Use Plan. In all cases, the effective width of the sidewalk shall be a minimum of 5 feet. Effective sidewalk width is the actual sidewalk width, less:
 - i) A shy distance of 2 feet where vertical barriers (walls, fences, signs, etc.) greater than 3.5 feet in height are adjacent to the sidewalk and extend more than 4 feet in length parallel to the sidewalk.
 - ii) A shy distance of 1.5 feet for curb adjacent to the sidewalk.
 - iii) A shy distance of 1 foot for all other fixed obstacles.
- (1) The greatest of the above distances shall apply for each side of the walk.

I) 166.23.C Urban Residential Design Standards

- 4. Pedestrian Circulation.
 - a. Ground floor dwelling units adjacent to a public street shall have a primary pedestrian entry that is visible from the street. This entry shall connect unobstructed to the public sidewalk where sidewalk exists in a manner to allow occupants to access from the interior of the structure to the city sidewalk. The connection shall match the sidewalk in material type and shall be at least 3 feet in width unless otherwise approved by the Zoning and Development Administrator in writing. The entry may be gated and shared but must occur at a spacing of no fewer than one (1) entrance for every two (2) street level dwellings. The pedestrian connection to the street may run from the door along the façade of the building parallel to the street for a maximum of 12 feet from the door before connecting directly to the public sidewalk.

I) 133.08.G Street Design and Access Management Standards

- 4. Non-Conforming Access Features.
 - I. Existing. Permitted access connections in place on the date of the adoption of this ordinance that do not conform with the standards herein shall be designated as nonconforming features and shall be brought into compliance with applicable standards under the following conditions:
 - a. When new access connection permits are requested;
 - b. Upon expansion greater than 50% of the property's appraised or market value as established by the Washington County Assessor; or
 - c. As roadway improvements allow.
 - d. With development of a new primary structure on the property.

Sincerely,



Brahm Driver, PE
Ecological Design Group, Inc. | 501.944.3090 | bdriver@ecologicaldg.com

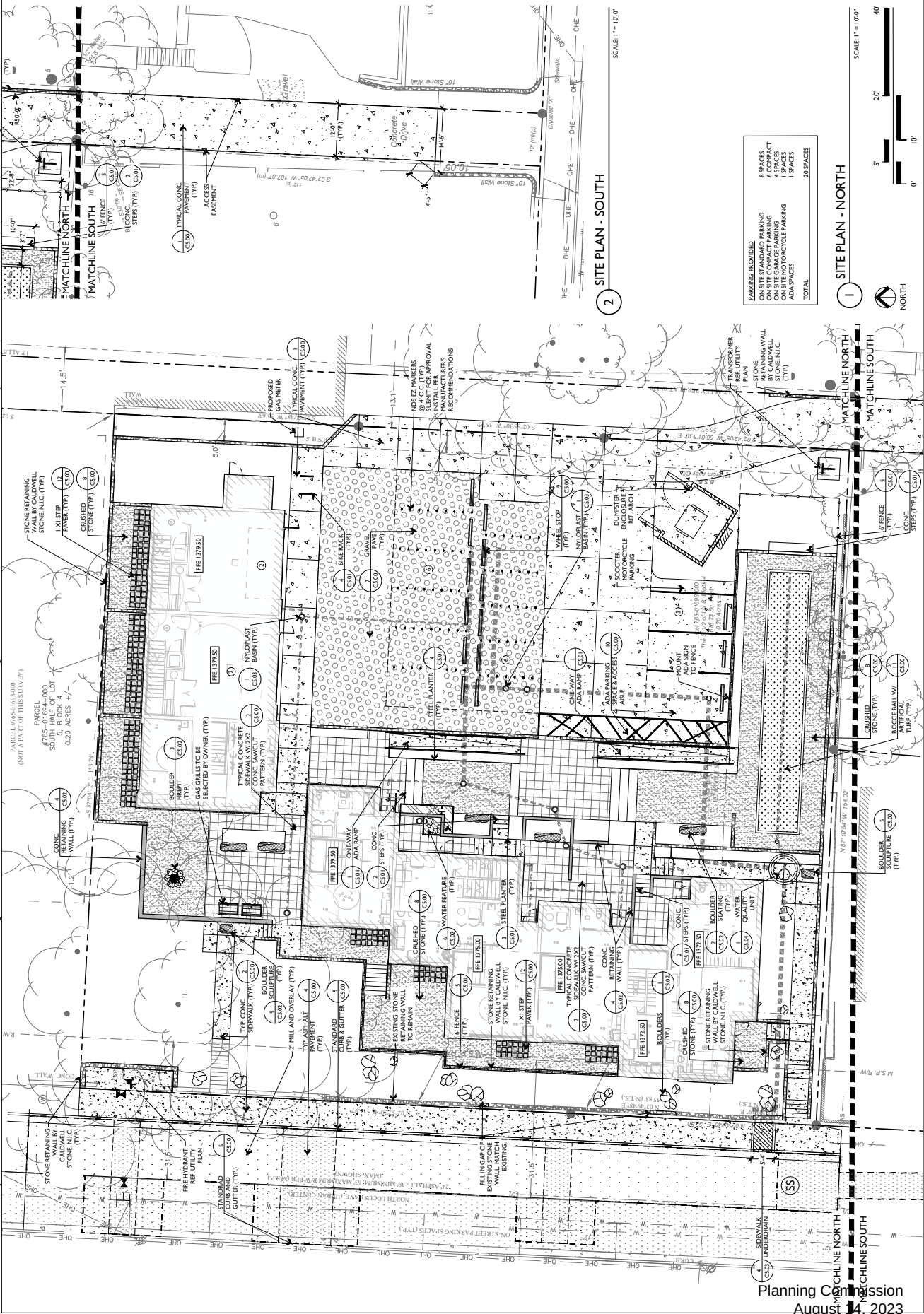


216 Locust
216 Locust Ave.
Fayetteville, AR

THIS DOCUMENT IS THE PROPERTY OF MODUS STUDIO. IT IS TO BE USED ONLY FOR THE PROJECT AND SITE SPECIFICALLY IDENTIFIED HEREIN. IT IS NOT TO BE REPRODUCED, COPIED, OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, WITHOUT THE WRITTEN PERMISSION OF MODUS STUDIO.

SITE PLAN
sheet: CD-198 + #P
date: 2023.04.10
project: 22.033

C1.00

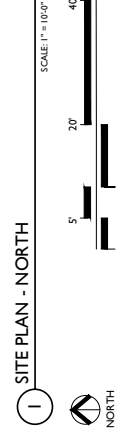


PARKING PROVIDED

ON SITE STANDARD PARKING	8 SPACES
ON SITE GARAGE PARKING	4 SPACES
ON SITE MOTORCYCLE PARKING	1 SPACES
ADA SPACES	2 SPACES
TOTAL	15 SPACES

1 SITE PLAN - NORTH

2 SITE PLAN - SOUTH

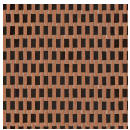


FINISH LEGEND : EXTERIOR



B-01
MANUFACTURER:
SPECIES:
COLOR:
TEXTURE:
GRAIN TYPE:
MOSAIC TYPE:
MOSAIC COLOR:
JOINTS (HORIZONTAL):
JOINTS (VERTICAL):
MASTORY ANCHOR:

BRICK 01
ACME BRICK
MODULAR
CRIMSON
VENOIR
SMOOTH
TYPE N (ASTM 270)
DARK CHOCOLATE
WEATHERED
CONCAVE
18" MAX. VERTICAL, 24" MAX. HORIZONTAL



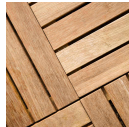
B-02
MANUFACTURER:
SPECIES:
COLOR:
TEXTURE:
GRAIN TYPE:
MOSAIC TYPE:
MOSAIC COLOR:
JOINTS (HORIZONTAL):
JOINTS (VERTICAL):
MASTORY ANCHOR:

BRICK 02
ACME BRICK
MODULAR
CRIMSON
SMOOTH
SCRIBED
TYPE N (ASTM 270)
DARK CHOCOLATE
WEATHERED
CONCAVE
18" MAX. VERTICAL, 24" MAX. HORIZONTAL



S5-01
COMPANY:

STACKED STONE WALL
CALDWELL STONE INC.



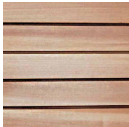
WD-01
MANUFACTURER:
SPECIES:
SIZE:
SUPPORTS:
FINISH:
SUBSTRATE:

WOOD DECKING 01
HARDWOOD WOOD PLANKS
PFI
2" HIDE TECH ADJUSTABLE DECK FIELDS
SMOOTH
SEE ALSO: WALL ROOF + ROOF TYPE SHEET FOR SUBSTRATE



MS-01
TYPE:
PROFILE:
SIZE:
THICKNESS:
PATTERN:
FINISH:
REINFORCEMENT:

MILD STEEL PLATE
HOT ROLLED MILD STEEL PLATE
FLAT
VARIABLE, OPTIMIZED FOR STANDARD PLATE DIMENSIONS
3/16" UNLESS OTHERWISE NOTED
WELDED
REINFORCED
REMOVE OIL, NATURALLY WEATHERING
PROVIDE SMALL STOCK ANGLE OR TIE-AL REQUIRED



WS-01
SPECIES:
GRADE:
SURFACE:
WEATHER:
PATTERN:
UNDERLAMENT:
FASTENERS:

WOOD SIDING 01 (RAINSCREEN)
CYPRESS ON WESTERN RED CEDAR
#2 OR BETTER
S4S
1X3 WITH 1/2" OPEN JOINT
NONE
KIEBE DRYPAL RAINSCREEN (200-11147)
STAINLESS STEEL SCREWS



PC-01
MANUFACTURER:
SIZE:
COLOR:
PROFILE:
FASTENERS:

POLYCARBONATE PANEL 01
PAUBAM SATEF 7250
PER DRAWINGS
WHITE TRANSPARENT UV STABLE
COMPOUND
STAINLESS STEEL SCREWS AND WASHERS WITH EPDM GASKETS



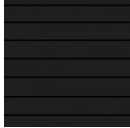
TPO
MANUFACTURER:
PRODUCT:
FASTENERS:
OTHER:
SLOPE:

THERMOPLASTIC POLYOLEFIN ROOFING
FREESTONE
60 MIL TPO ROOFING
MECHANICALLY ADHERED
2X6 JOIST COVER BOARD
PROVIDE SACRIFICE STRIPS AT ANY LOCATION WHERE OTHER
MEMBERS TOUCH THE ROOF
MIN 1/4" PER FOOT



MP-01
MANUFACTURER:
PROFILE:
GAGE:
SUBSTRATE:
JOINTS:
FASTENERS:

METAL PANEL 01
CONCEALED JOINT METAL PANEL
AIA STEEL, INC.
12" METAL JOINT DEEP
AIA ALUMINUM
1/2" BRANCHES
PER DETAIL DRAWINGS
MAX OF 0.05



FCB-01
MANUFACTURER:
SURFACE:
SIZE:
PATTERN:
FINISH:

ALTERNATE
JANIS HARDY OR APPROVED EQUAL
SMOOTH (NO MAX WOOD GRAIN)
1/2" x 1/2" x 1/2"
AIA REQUIRED BY MANUFACTURER
PAINTED



MB-01
PRODUCT:
PRODUCT #:
ENCLOSURE:
LETTERS:
ADD ONE:

MAILBOXES
Subsidiary 10 Door High Free Standing 4C Horizontal
Mailbox with 10 Doors and 2 Parcel Lockers in Black
39100.008P
CUSTOM ENGRAVED
OUTDOOR MAIL SLOT

Issue for review: 2023.04.10
Issue for pricing: 2023.04.10
Issue for construction: 2023.04.10
REVISIONS:

modus
studio
architecture
typography
47455.5577
connect@modusstudio.com



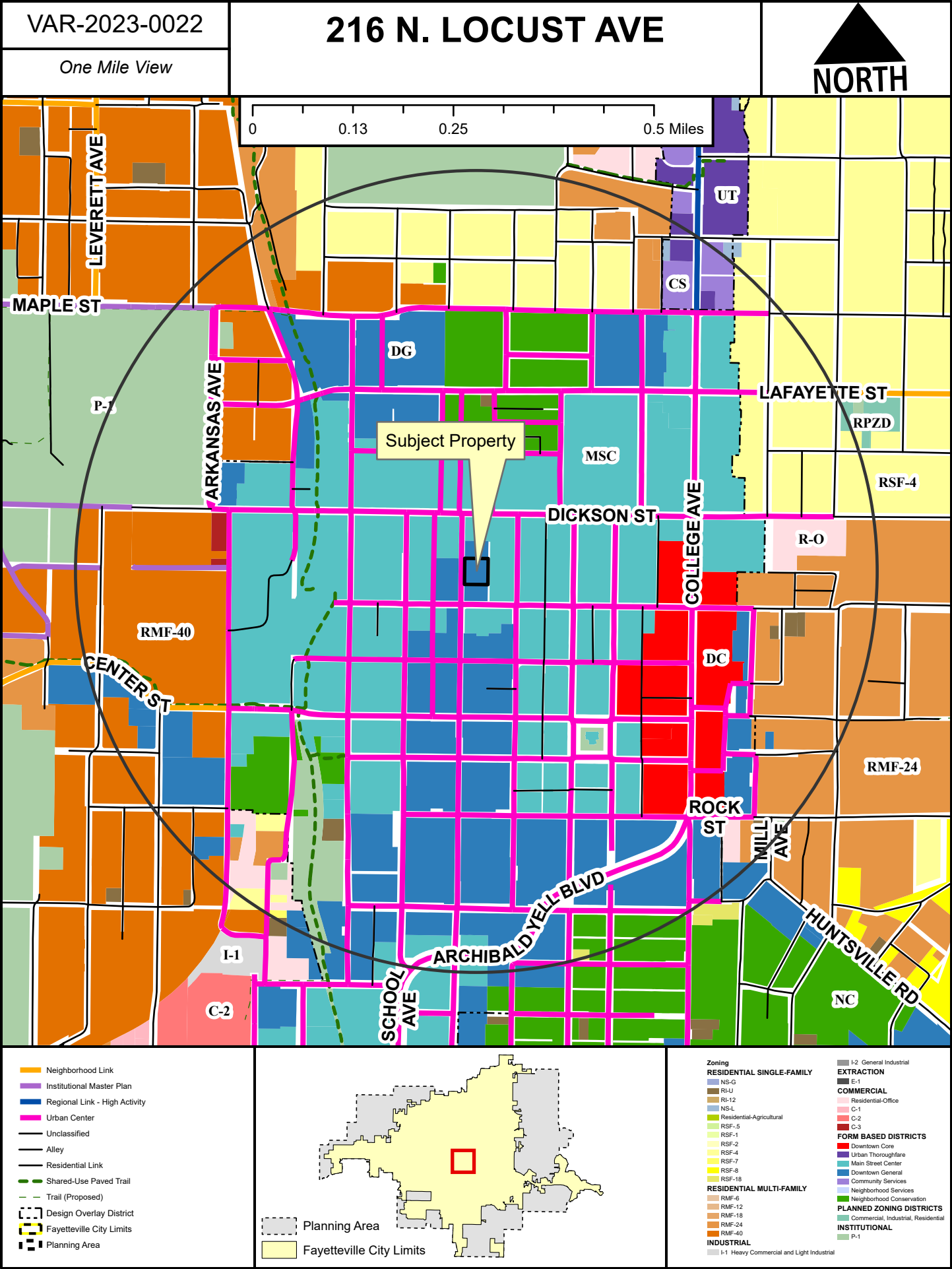
216 Locust
216 Locust Ave.
Fayetteville, AR

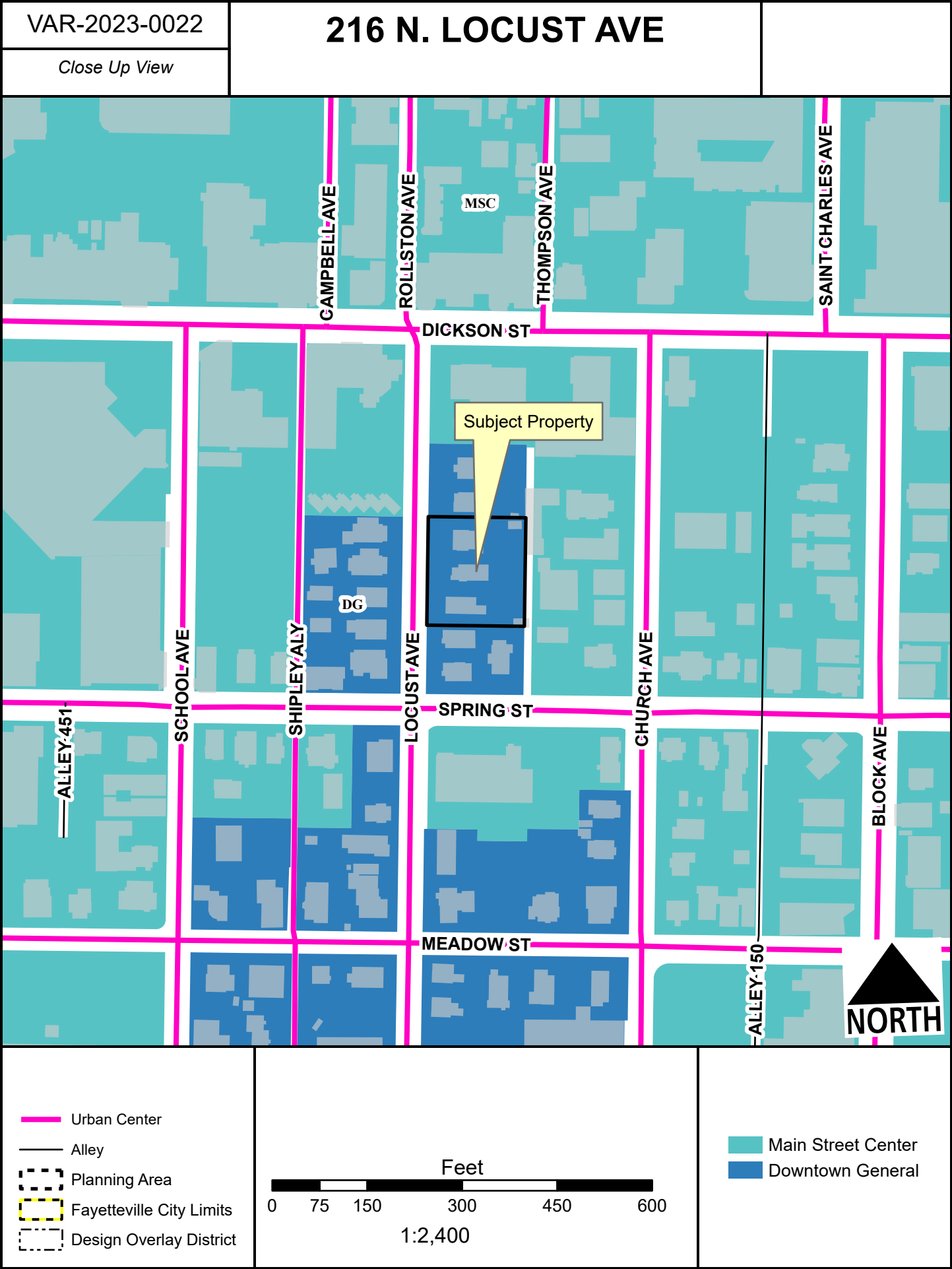
FORM TO SHEET: SCALE: 1/8" = 1'-0" ALL
WORK AND DETAILS ARE TO THE BOTTOM OF
THE SHEET UNLESS OTHERWISE NOTED
AND INDICATED BY A NOTE ON THE SHEET

C.D.R. CRAWFORD
CONSTRUCTION
1100 S. GUYTON AVE.
SUITE 100
FAYETTEVILLE, AR 72701
ALL INFORMATION AND DIMENSIONS ON
THIS DRAWING ARE THE PROPERTY OF
C.D.R. CRAWFORD CONSTRUCTION
AND SHALL REMAIN THE PROPERTY OF
C.D.R. CRAWFORD CONSTRUCTION
UNLESS OTHERWISE NOTED
THE ADDRESS OF ANY OTHER CORRELATION

CONTENTS
FINISH LEGEND - EXTERIOR
sheet: CD 01R + 01P
date: 2023.04.10
pages: 22/23

A2.00

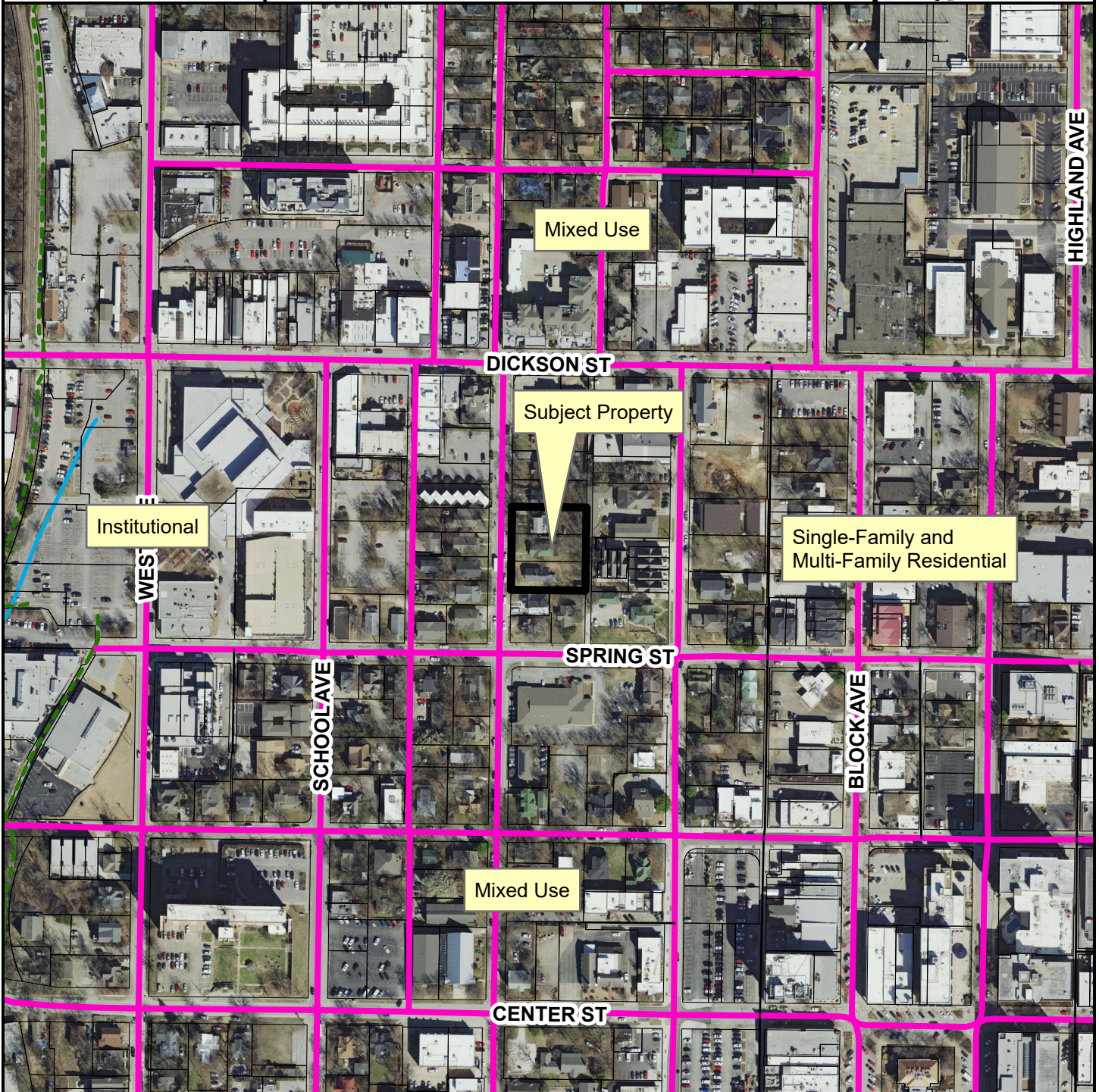




VAR-2023-0022

216 N. LOCUST AVE

Current Land Use



- Urban Center
- Alley
- Planning Area
- Fayetteville City Limits
- Design Overlay District



FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: August 14, 2023

SUBJECT: **VAR-2023-0031: Planning Commission Variance (1207 N. SHADY LANE/ LITTLE, 406):** Submitted by MARJORIE LITTLE for property located at 1207 N. SHADY LANE. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 0.17 acres. The request is for a variance to access management standards.

RECOMMENDATION:

Staff recommends approval of **VAR-2023-0031** with conditions.

RECOMMENDED MOTION:

"I move to approve VAR-2023-0031, recommending:

- In favor of the requested variance to §166.08(F)(3), Street Design and Access Management Standards; and*
- In favor of all other conditions as recommended by staff."*

BACKGROUND:

The subject property is in central Fayetteville approximately 500 feet west of the Veteran's Healthcare System of the Ozarks. The parcel currently consists of a 1,536 square foot single-family structure built in 1946. An existing non-conforming 11x20 foot garage located in the northwest corner of the parcel, and an existing gravel driveway is shared between this parcel and the adjacent property to the north. Surrounding land use and zoning is depicted in Table 1.

Table 1:
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Single-Family Residential	RSF-4 Residential Single-Family, 4 Units per Acre
South	Single-Family Residential	RSF-4 Residential Single-Family, 4 Units per Acre
West	Single-Family Residential	RSF-4 Residential Single-Family, 4 Units per Acre
East	Single-Family Residential	RSF-4 Residential Single-Family, 4 Units per Acre

Request: The applicant requests a variance to 166.08(F)(3), Street Design and Access Management Standards, Curb Cut Separation for Single-Family Homes. In all cases, curb cuts shall be a minimum of five feet from the adjoining property line, unless shared. The applicant intends to remove shared access, and pave an existing driveway with zero feet of separation distance.

DISCUSSION

Variance: §166.08(F)(3), Street Design and Access Management Standards, Curb Cut Separation for Single-Family Homes. In all cases curb cuts shall be a minimum of five feet from the adjoining property line, unless shared. There is currently an existing gravel driveway located along the northern property line that is shared between the applicant and their adjacent neighbor in order to access garages located in the rear of the property. The applicant seeks to pave her portion of this driveway and no longer wishes to share driveway access.

- *Staff recommendation:* Staff supports the request subject to conditions of approval. As noted, the subject property currently exists as an approximately 22-foot shared drive without an access easement. Approximately 14 feet of this driveway is located on the applicant's property according to The paving of the southern portion of this driveway is not anticipated to substantially alter the existing conditions or impact traffic safety as no change in the existing driveway location is proposed. Staff has reviewed the plans and supports the request with the added condition that any grading or other construction occurring on the adjacent property must receive permission from the adjacent property owners.

Public Comment: Staff has not received any public comment at this time.

RECOMMENDATION: Staff recommends approval of VAR-2023-0031 with the following conditions.

Conditions of Approval:

1. **Planning Commission determination of a variance of §166.08(F)(3), Street Design and Access Management Standards, to allow a non-shared driveway closer than five feet to a property line.** *Staff recommends approval of the requested variance for the reasons outlined above and subject to the following conditions:*
 - a. *Any work on the adjacent property will require the consent of the adjacent property owners.*
2. Approval of this variance does not represent overall development entitlement approval for the project, nor grant approval for any associated grading or building permits, nor does it grant final approval of certificate of occupancy.

PLANNING COMMISSION ACTION: Required YES

Date: August 14, 2023 ☐ Tabled ☐ Approved ☐ Denied

Motion:

Second:

Vote:

BUDGET/STAFF IMPACT:

None

Attachments:

- Unified Developed Code:
 - §166.08, Street Design and Access Management Standards
- Request Letter
- Staff Exhibit: Driveway Request
- Site Plan
- Site Photos
- One Mile Map
- Close-up Map
- Current Land Use Map

166.08 Street Design And Access Management Standards

...

- (C) *Applicability.* The standards set forth herein shall apply to land which is proposed to be developed with new primary structures and all other developments where the creation of public streets are required, or proposed, or in which new or existing access is created or modified; or developments or expansions containing non-conforming access features which meet the thresholds set forth in subsection (G).

...

- (F) *Access Management.* Safe and adequate vehicular, bicycle, and pedestrian access shall be provided to all parcels. Residential link streets and driveways shall not detract from the safety and efficiency of bordering arterial routes. Property that fronts onto more than one (1) public street shall place a higher priority on accessing the street with the lowest functional classification, e.g., residential and neighborhood links. In a case where the streets have the same classification, access shall be from the lower volume street, or as determined by the City Engineer.

- (1) *Curb Cut Separation.* For purposes of determining curb cut or street access separation, the separation distance shall be measured along the curb line from the edge of curb cut to the edge of curb cut/intersection. The measurement begins at the point where the curb cut and intersecting street create a right angle, i.e., the intersection of lines drawn from the face-of-curb to face-of-curb. The measurement ends at the point along the street where the closest curb cut or street intersection occurs; again, measured to the point where the curb cut or intersecting streets create a right angle at the intersection of face-of-curb. In all cases curb cuts shall be a minimum of 5 feet from the adjoining property line, unless shared.

...

- (3) *Separation for Single-Family Homes.*

- (a) For all street classifications, curb cuts shall be located a minimum of 10 feet from another driveway. Driveways serving corner lots shall be located as far from the street intersection as possible while still meeting a 5-foot separation from an adjoining property line. In no case shall a curb cut be located within the radius of an adjacent curb cut or street intersection.
- (b) *Regional and Neighborhood Links.* Individual curb cuts along regional and neighborhood link streets shall be discouraged. When necessary, curb cuts along regional and neighborhood link streets shall be shared between two (2) or more lots.
- (4) *Reduction in Separation Distance.* In order to protect the ingress and egress access rights to a street of an abutting property owner, the City Engineer may reduce the separation distance of existing and proposed access points where strict compliance proves impractical, provided that joint access driveways and cross access easements are provided wherever feasible, and the ingress/egress curb cut is placed at the safest functional location along the property.

- (5) *Speed.* All streets should be designed to discourage excessive speeds.

- (G) *Non-Conforming Access Features.*

- (1) *Existing.* Permitted access connections in place on the date of the adoption of this ordinance that do not conform with the standards herein shall be designated as nonconforming features and shall be brought into compliance with the applicable standards under the following conditions:
- (a) When new access connection permits are requested;
- (b) Upon expansion greater than 50% of the property's appraised or market value as established by the Washington County Assessor; or
- (c) As roadway improvements allow.
- (d) With development of a new primary structure on the property.

(H) *Easements.* Utility and drainage easements shall be located along lot lines and/or street right-of-way where necessary to provide for utility lines and drainage. The Planning Commission may require larger easements for major utility lines, unusual terrain or drainage problems.

(Code 1965, App. C., Art. IV, §§C, D, F—H; Ord. No. 1750, 7-6-70; Ord. No. 1801, 6-21-71; Ord. No. 2196, 2-17-76; Ord. No. 2353, 7-5-77; Code 1991, §§159.45, 159.58, 159.51—159.53; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4757, 9-6-05; Ord. No. 4919, 9-05-06; Ord. No. 5156, 8-5-08; Ord. No. 5296, 12-15-09; Ord. No. 5546, 12-04-12; Ord. No. 5642, 12-03-13; Ord. No. 6179, §1, 4-16-19; Ord. No. 6207, §§1—4, 7-16-19; Ord. No. 6244, §1, 10-1-19; Ord. No. 6350, §4(Exh. C), 8-18-20)

July 18, 2023

City of Fayetteville Arkansas Planning Commission
125 W. Mountain St
Fayetteville, AR 72701

RE: Request to pour concrete driveway to property line

To the Chair of the Planning Commission:

My Issues/Hardships:

- Long, narrow driveway with side porch encroachment prohibits ease of access to existing garage.
- Birds perched on the overhead power line and tree cause damage to my car.

Solution: Pour a concrete driveway (from street to north side porch). This will allow me to ultimately construct a carport closer to the street that would provide safe, covered passage to my car as well as protection for my car.

Code of Ordinances of concern:

- Ordinance 166.08: Access Management — Curb Cut Separation: For all street classifications ... In all cases curb cuts shall be a minimum of 5 feet from the adjoining property line, unless shared.

Variance Request:

- 1) Eliminate the curb cut separation setback requirement. Please note, this portion of Shady Lane does not have curbs or sidewalks, so this restriction may not apply to my particular lot.

My proposal/plan includes:

- 1) Concrete driveway from street to the back edge of the north side porch and from house over to property line. I've approached my neighbor about my plans, and he too, may be interested in pouring a concrete driveway, similar in length to my proposal.

Attached to the application is the following:

- Survey of my property, located at 1207 Shady Lane
- Certificate of Ownership form
- Snapshot of our adjoining driveways
- Snapshot of a downtown Fayetteville property containing similar elements to my proposal (adjoining concrete driveways with no variance).

Thanks for your consideration.

Marjorie Little
1207 Shady Lane
Fayetteville, AR 72703
mblittle@cox.net

Staff Exhibit: Driveway Location



Figure 1: Survey of Parcel, with Applicant Markups



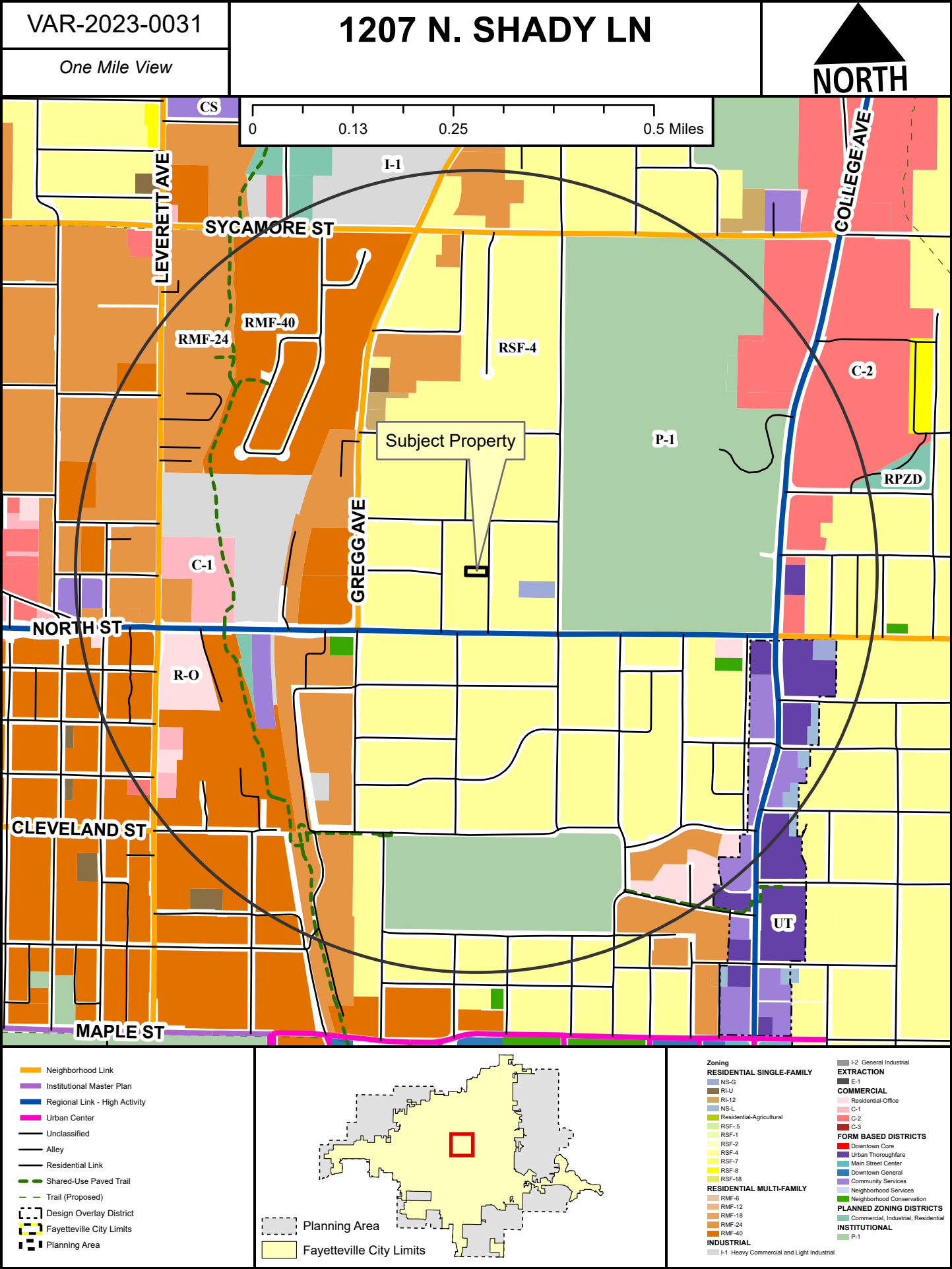
Figure 2: Photo of Existing Driveway and Garage



Figure 3: Google Maps, Screenshot of Driveway from N. Shady Lane



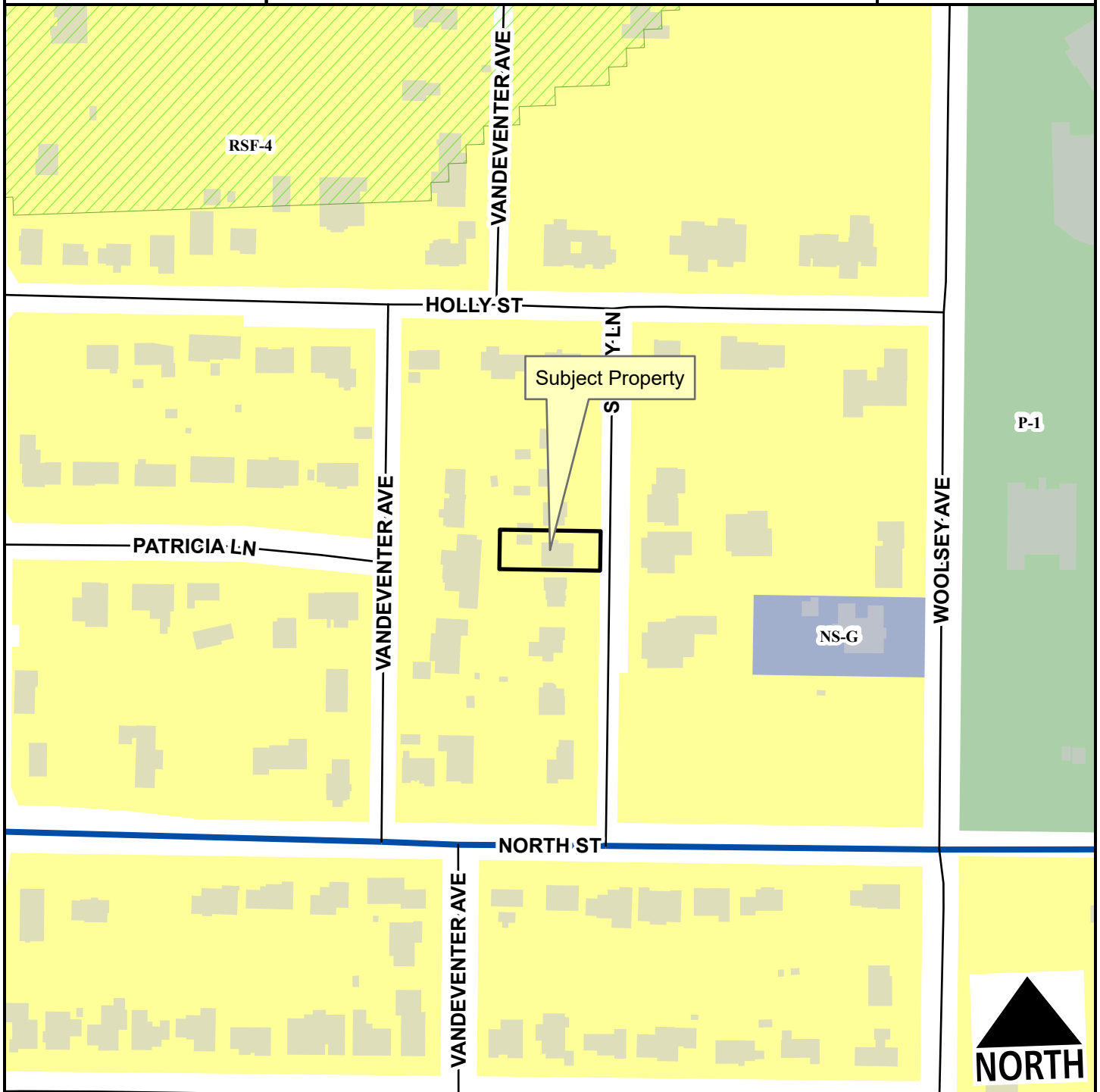
Figure 4: Applicant Photo, Downtown Example of Driveways on Property Lines



VAR-2023-0031

1207 N. SHADY LN

Close Up View



- Regional Link - High Activity
- Residential Link
- Hillside-Hilltop Overlay District
- Planning Area
- Fayetteville City Limits



- RSF-4
- Neighborhood Services - Gen.
- P-1

VAR-2023-0031

1207 N. SHADY LN

Current Land Use



- Neighborhood Link
- Regional Link - High Activity
- Unclassified
- Residential Link
- Planning Area
- Fayetteville City Limits

Feet

0 112.5 225 450 675 900

1:3,600

FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway



TO: City of Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager
Chris Brown, Public Works Director

FROM: Alan Pugh, Staff Engineer

MEETING DATE: August 14, 2023

SUBJECT: **VAR-2023-0033: Planning Commission Variance (3825 N. SHILOH DR/CAJAKAJI INVESTMENTS, 174):** Submitted by BLEW & ASSOCIATES for property located 3825 N. SHILOH DR. The property is zoned C-2, THOROUGHFARE COMMERCIAL and contains approximately 2.61 acres. The request is for a variance from the flood damage protection ordinance.

RECOMMENDATION:

Staff recommends denial of **VAR-2023-0033**, based on the findings contained in this report.

RECOMMENDED MOTION:

"I move to deny **VAR-2023-0033**."

BACKGROUND:

The subject property is located just northwest of the intersection Fulbright Expressway and N. College Avenue near Mud Creek. The property totals approximately 2.61 acres and currently contains a commercial development for an office building. Mud Creek flows generally east to west across the southern side of the property. The creek is currently indicated as Zone AE, base flood elevation determined, according to the 2008 Flood Insurance Study (FIS). The creek is on the list of protected streams as identified in the streamside protection map adopted in 2011 along with the streamside protection ordinance. Surrounding land uses and zoning is depicted in *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Commercial	C-2, see attached project maps
South	Commercial	
East	Commercial	
West	Commercial	

Request: The applicant is requesting a variance from 168.11, which requires all new and substantially improved commercial structures to be elevated at least two feet above the base flood elevation or flood proofed to at least 3 feet above the base flood elevation.

Public Comment: Staff has received no public comment concerning this request.

DISCUSSION:

The presences of the Zone AE floodplain on the property would trigger the requirement for any new or substantially improved structure to be elevated at least 2 feet above the base flood elevation (BFE) or, in the case of a non-residential structure, it can be dry floodproofed to an elevation of at least 3 feet above the BFE. The applicant applied for a building permit to do an extensive remodel/addition on December 17, 2021. At that time, the applicant was informed that due to the extent of the improvements the structure would require floodproofing as it was not currently elevated at least two feet above the base flood elevation. The existing structure according to previous elevation certificates performed is approximately 0.86' above the BFE.

Due to this regulation, the applicant provided plans showing a flood wall to be constructed around the building envelope. At the time of approval, staff pointed out the conflicts of this solution with the submitted architectural plans but approved the submittal as it met the requirements of the code. The applicant indicated they needed to get started and would work out a solution with the architect which would be submitted at a later date for review.

As construction progressed, staff contacted the applicant on at least two occasions to express continued concern that the conflict between the floodwall and the architectural plans had not been addressed. When the construction was nearing completion, the applicant informed staff they intended to petition FEMA to remove the entire property from the floodplain which would remove the floodproofing requirement. A temporary certificate of occupancy was ultimately issued while FEMA reviewed the application.

On June 6 staff was informed that FEMA had ruled on the application. However, they had not agreed to remove the entire property from the floodplain, only a portion. This did not remove the floodproofing requirement and the applicant was informed a full certificate of occupancy could not be issued until that item was addressed. At that time, the applicant chose to submit a variance request. Subsequent to the application, the applicant submitted a building permit for another large alteration to the building.

Due to the fact the approved plans met the floodproofing requirements and the proximity to other structures in the area that have met the floodproofing requirements, staff feels the applicant has not met the burden of hardship as defined by the ordinance. For this reason, staff recommends denial of the variance.

RECOMMENDATION: Staff recommends denial of **VAR-2023-0033**. **Staff does not have any recommended conditions of approval, should the Planning Commission approve this request.**

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>August 14, 2023</u>	☐ Tabled	☐ Approved	☐ Denied
Motion:			
Second:			
Vote:			

FINDINGS OF THE STAFF

Section 156.03 Development Variances: Certain variances of the development regulations may be applied for as follows:

(7) Flood Damage Prevention Code. The Planning Commission shall hear and decide requests for variances from the requirement of this ordinance.

(a) In passing upon such applications, the Planning Commission shall consider all technical evaluations, all relevant factors, and standards specified in other sections of this ordinance.

(b) Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed in the National Register of Historic Places, without regard to the procedures identified in the remainder of this ordinance. Variances may only be issued for such repair, or rehabilitation if strict enforcement of the ordinance would preclude the structure's continued designation as a historic structure, and the variance is the minimum necessary to preserve the historic character and design of the structure.

(c) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot ½ acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items listed in [§168.05\(B\)\(4\)](#) have been fully considered. As the lot size increases beyond half acre, the technical justification required for issuing the variance increases.

(d) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(e) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(f) Floodplain variances shall only be issued if:

(i) There are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property, which do not apply generally to other property in the same flood zone;

Plans meeting the required code were originally approved, however, the applicant failed to construct the floodwall within the plans. Other similar structures in the area have been floodproofed using various methods.

(ii) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and,

The applicant has stated that it would be expensive to floodproof the structure, however, as stated above other structures in the area have been floodproofed using various methods in the recent past.

(iii) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with the other provisions of the Code of Fayetteville.

The applicant had provided the no adverse impact study which was approved with the building plans. Based on the study provided, no increase in floodplain elevations was anticipated with the proposed expansion.

(g) Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the provisions of [§168.05\(B\)\(4\)](#) are considered and that the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

Not applicable to this project

(h) Upon consideration of the factors in this section, and the purpose of this ordinance, the Planning Commission may impose conditions to the granting of floodplain variances as it deems necessary to further the purpose of this ordinance.

Staff is recommending denial and has no further recommended conditions should planning commission choose to grant the request.

(i) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the regulatory flood elevation surcharge and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. A copy of the notice shall be recorded by the floodplain administrator in the office of the Washington County Clerk and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.

Not applicable to this project

Attachments:

- Applicant Request Letter
- Applicant Correspondence
- One Mile Map
- Close Up Map
- Current Land Use Map

BLEW & ASSOCIATES, PA
CIVIL ENGINEERS & LAND SURVEYORS

July 11, 2023

City of Fayetteville
113 W. Mountain Street
Fayetteville, Arkansas 72701
c/o Honorable Chair of the Planning Commission.

SUBJECT: Blew & Associates, PA
 Headquarters Flood Damage Prevention Varaince.

Dear Honorable Chair:

Cajakajo Investments, Inc. owner of the property located at 3825 N. Shiloh Drive in the City of Fayetteville, Arkansas is requesting a variance to section 168.10 of the Unified Development Code (UDC):

- (V) *Any structure, including but not limited to new structures, additions and substantial improvement, constructed on property fully or partially within the special flood hazard area (SFHA) shall meet the elevation or floodproofing requirements within §168.11 as applicable, even if the structure itself is located outside the SFHA.*

And from Section 168.11 of the Unified Development Code:

- (2) *For nonresidential structures in Zone AE:*
- (a) *All new commercial, industrial or other nonresidential structures must either:*
- (i) *Have the lowest floor (including basement) and any mechanical equipment elevated 2 feet or more above the base flood level; or*
- (ii) *Be floodproofed such that, together with attendant utility, sanitary facilities and mechanical equipment, be designed so that below an elevation of 3 feet above the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.*
- (iii) *A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify on a floodproofing certificate that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the Floodplain Administrator.*
- (b) *For all substantial improvements or substantial damage to existing commercial, industrial or other nonresidential structures the entire structure becomes subject to the requirements of a new nonresidential structure.*
- (c) *For any reconstruction, rehabilitation, addition, or other improvement to an existing nonresidential structure that is less than a substantial improvement, only the improved area, but not the entire structure, becomes subject to the requirements of a new nonresidential structure.*

Before the recent addition to the building, the main structure that was built in 2017 - 2018 prior to the adoption of this code. As such, the building that has an Finished Floor Elevation (FFE) of 1196.54 ft was located above the Base Flood Elevation (BFE) of 1195.50 ft so the above requirements were not in place for the original structure.

Knowing that the original structure was a Steel Frame Structure on a Concrete Slab with no provisions made for Flood Proofing.

In time, the ownership of Blew & Associates, PA, realized that they need to expand the building due to a growing workforce. However, the expansion was substantial enough that the entire structure, new and old, was deemed to be brought into code per the above UDC Sections.

Below are pictures of the original 2018 building and the addition:



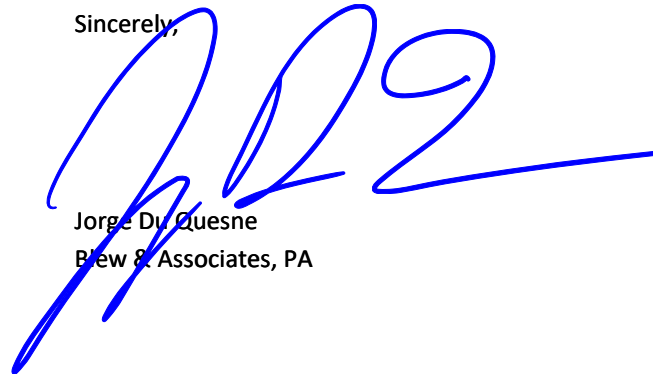
Blew & Associates, PA then commissioned FTN & Associates to reanalyze the flood plain and they now show that the flood plain is not impacting the site as substantially as the old maps, due to errors in calculations of the flows or errors in selecting the roughness coefficient of the streams, or errors in the model, or ... Please see attached exhibit provided by FTN.

Blew & Associates, PA also proceeded to determine what flood proofing the structure would cost. A concrete flood wall around the structure with flood gates at the entrances and multiple sump pumps behind the wall to release the rainwater would be \$300,000.00 to install. Where if the ordinances had been in place with the original construction, steps could have been taken to install masonry along the bottom of the walls and install flood proof windows and entrances. At this point, with the main building still being in use and windows stretching to the ground, retrofitting the existing building would have cost in money and would have required shutting down of the business.

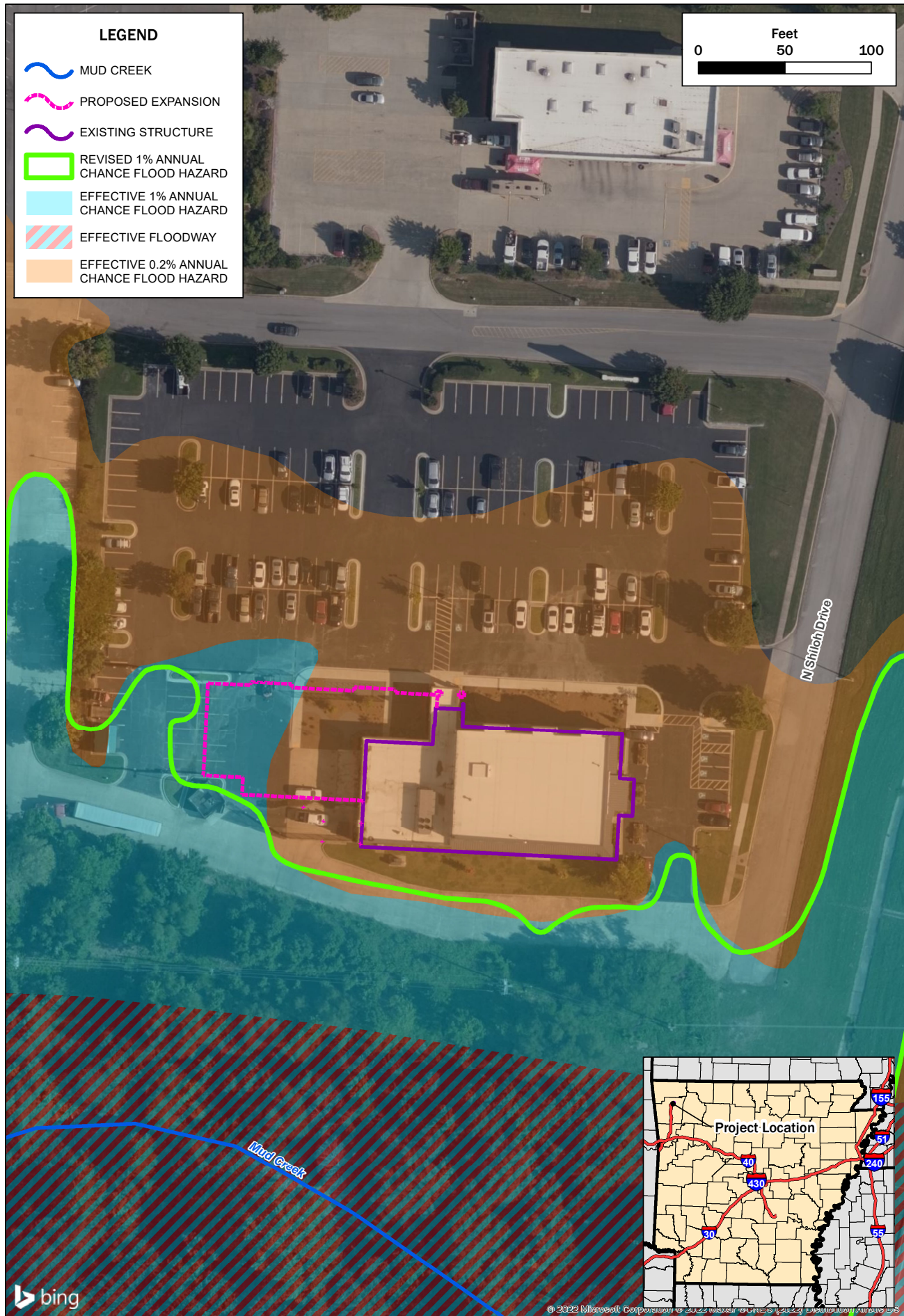
Please note that in the time that Blew & Associates, PA has been in the building for multiple years during significant rainfall events that have caused flooding in other parts of the City, but flood waters were not seen adjacent to the building or even in the drive adjacent to Mud Creek. Nor was any flood damage witnessed in the prior building before demolition.

Knowing all the items above and with the revised flood map that FTN is in the process of getting approved, Blew & Associates, PA in association with Cajakajo Investments, Inc. is requesting a variance to the requirement of additional Flood Damage Protection for the building located at 3825 N. Shiloh Drive so as to not provide flood protection around the building and not construct the flood wall.

Sincerely,

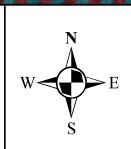


Jorge Du Quesne
Blew & Associates, PA





 124 W. Sunbridge Dr.
 Suite 3
 Fayetteville, AR 72703
 479-571-3334



BLEW & ASSOCIATES LOMR-F
FAYETTEVILLE, ARKANSAS
REVISED MAPPING BASED ON SURVEY
 COORDINATE SYSTEM: NAD 1983 StatePlane Arkansas North FIPS 0301 Feet

PROJECT NO:	14700-2852-002
FILE NAME:	Figure1_Project Location
DATE:	1/10/2023
SCALE:	1:600
CREATED BY:	Planning Commission

August 14, 2023
 Page 8 of 17

Figure 1

Pugh, Alan

From: Pugh, Alan
Sent: Tuesday, January 10, 2023 2:54 PM
To: Jorge Du Quesne; Lor, Jim
Cc: BJ Phillips; Dave Burris; Josh Epps; Buckley Blew; Sanders, Dennis; Brown, Chris; Lee Beshoner
Subject: RE: COMM-2021-000456

Jorge,

Just be aware I don't believe that is a variance that staff can support. However, you have many options but I would recommend you discuss them with the architect. In the past I've seen spray on coating in combination with door and window panels as well as a TPO type material placed under a brick wainscoting. FEMA has publications that provide guidance should you need them.

Alan

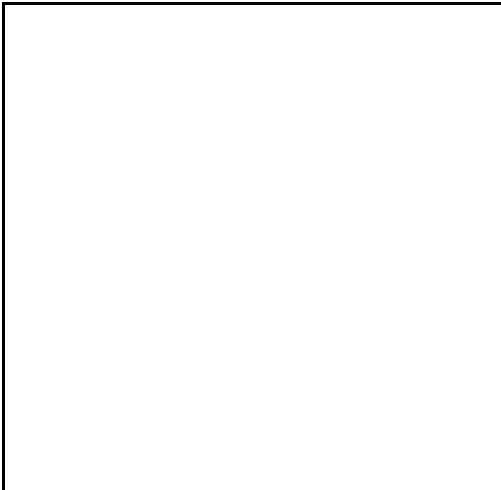
From: Jorge Du Quesne <jorge@blewinc.com>
Sent: Tuesday, January 10, 2023 2:19 PM
To: Pugh, Alan <apugh@fayetteville-ar.gov>; Lor, Jim <jlor@fayetteville-ar.gov>
Cc: BJ Phillips <bj@burrisarch.com>; Dave Burris <dave@burrisarch.com>; Josh Epps <josh@napaconstructionllc.com>; Buckley Blew <buckley@blewinc.com>; Sanders, Dennis <dsanders@fayetteville-ar.gov>; Brown, Chris <cbrown@fayetteville-ar.gov>; Lee Beshoner <ljb@ftn-assoc.com>
Subject: Re: COMM-2021-000456

CAUTION: This email originated from outside of the City of Fayetteville. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Alan,

We will be pursuing the variance, but we were curious if anything else might be installed instead of a flood wall?

Sincerely,



Jorge Du Quesne

Engineering | Director
jorge@blewinc.com
(479) 633-7654 Mobile

Blew & Associates, P.A.

5102 S. Pinnacle Hills Pkwy
Rogers, AR 72758
(479) 443-4506
www.blewinc.com



On 1/9/2023 2:44 PM, Pugh, Alan wrote:

Jorge,

I received some LOMR-F documentation today. As a reminder of our previous conversation, a LOMR-F will not absolve the structure(s) from having to meet the elevation/floodproofing requirement unless the entire property is removed.

Alan

From: Pugh, Alan

Sent: Thursday, December 15, 2022 8:39 AM

To: Jorge Du Quesne <jorge@blewinc.com>; Lor, Jim <jl@fayetteville-ar.gov>

Cc: BJ Phillips <bj@burrisarch.com>; Dave Burris <dave@burrisarch.com>; Josh Epps <josh@napaconstructionllc.com>; Buckley Blew <buckley@blewinc.com>; Sanders, Dennis <dsanders@fayetteville-ar.gov>; Brown, Chris <cbrown@fayetteville-ar.gov>

Subject: RE: COMM-2021-000456

Jorge,

I was by today and the project is very far along. I believe they are attaching siding, windows are installed and I do not see anything with regard to floodproofing. Note that a CO will not be issued without that comment being addressed.

Alan

From: Jorge Du Quesne <jorge@blewinc.com>

Sent: Thursday, September 29, 2022 11:21 AM

To: Pugh, Alan <apugh@fayetteville-ar.gov>; Lor, Jim <jl@fayetteville-ar.gov>

Cc: BJ Phillips <bj@burrisarch.com>; Dave Burris <dave@burrisarch.com>; Josh Epps <josh@napaconstructionllc.com>; Buckley Blew <buckley@blewinc.com>; Sanders, Dennis <dsanders@fayetteville-ar.gov>

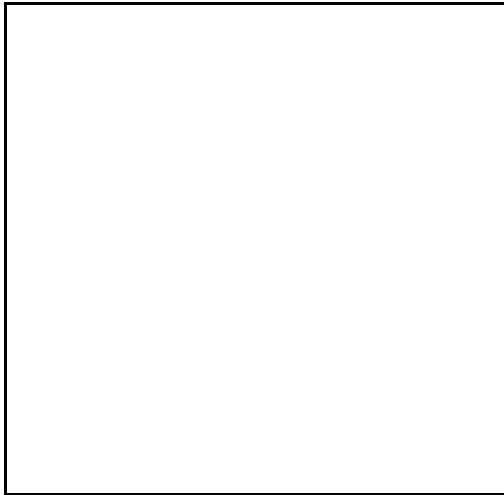
Subject: Re: COMM-2021-000456

CAUTION: This email originated from outside of the City of Fayetteville. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Alan,

I'm hoping the architect may be able to better address or comment on your question. You did originally attach him to the e-mail. Thank you for the reminder.

Sincerely,



Jorge Du Quesne

Engineering | Director
jorge@blewinc.com
(479) 633-7654 Mobile

Blew & Associates, P.A.

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Rogers, AR 72758
(479) 443-4506
www.blewinc.com



On 9/29/2022 7:07 AM, Pugh, Alan wrote:

Jorge,

I noticed the framing for the structure was coming along and it appears to match the plan wherein there will be glazing to the slab. Note that I don't believe we ever received anything addressing the condition of approval below.

Alan

From: Pugh, Alan

Sent: Friday, June 3, 2022 4:20 PM

To: 'Jorge Du Quesne' <jorge@blewinc.com>; Lor, Jim <jl@fayetteville-ar.gov>

Cc: BJ Phillips <bj@burrisarch.com>; Dave Burris <dave@burrisarch.com>; Josh Epps <josh@napaconstructionllc.com>; Buckley Blew <buckley@blewinc.com>

Subject: RE: COMM-2021-000456

Jorge,

EC looks good.

Plans look good with the exception of the following comment based on our discussion. They will be approved with this condition:

Complete analysis of how the floodwall will interact with the proposed architectural features such as the glass façade in certain areas. If you intend to seek a variance from that requirement, the variance will need to be approved or the above comment addressed before the construction of the floodwall and those architectural features in which it may conflict. If you have any questions please let us know.

Alan

From: Jorge Du Quesne <jorge@blewinc.com>

Sent: Friday, June 3, 2022 4:02 PM

To: Pugh, Alan <apugh@fayetteville-ar.gov>; Lor, Jim <jl@fayetteville-ar.gov>

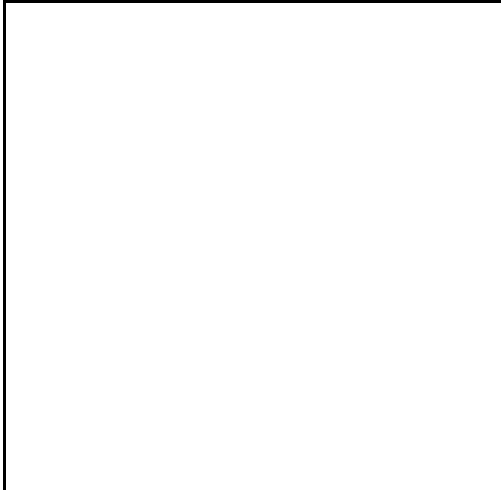
Cc: BJ Phillips <bj@burrisarch.com>; Dave Burris <dave@burrisarch.com>; Josh Epps <josh@napaconstructionllc.com>; Buckley Blew <buckley@blewinc.com>

Subject: Re: COMM-2021-000456

CAUTION: This email originated from outside of the City of Fayetteville. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Attached.

Sincerely,



Jorge Du Quesne

Engineering | Director
jorge@blewinc.com
(479) 633-7654 Mobile

Blew & Associates, P.A.

5102 S. Pinnacle Hills Pkwy
Rogers, AR 72758
(479) 443-4506
www.blewinc.com



On 6/3/2022 3:59 PM, Pugh, Alan wrote:

Jorge,

Email me the documents directly, we are having issues with our permitting software.

Alan

From: Jorge Du Quesne jorge@blewinc.com

Sent: Friday, June 3, 2022 3:03 PM

To: Lor, Jim jl@fayetteville-ar.gov; Pugh, Alan apugh@fayetteville-ar.gov

Cc: BJ Phillips bj@burrisarch.com; Dave Burris dave@burrisarch.com; Josh Epps josh@napaconstructionllc.com; Buckley Blew buckley@blewinc.com

Subject: COMM-2021-000456

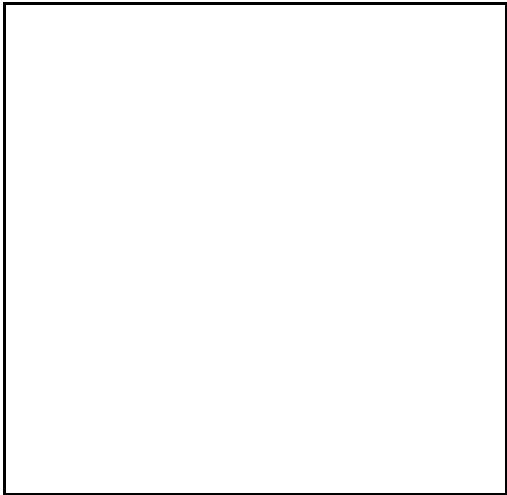
CAUTION: This email originated from outside of the City of Fayetteville. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Mr. Lor, Mr. Pugh,

Revised documents for Alan's review has been uploaded to the website.

--

Sincerely,

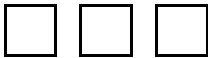


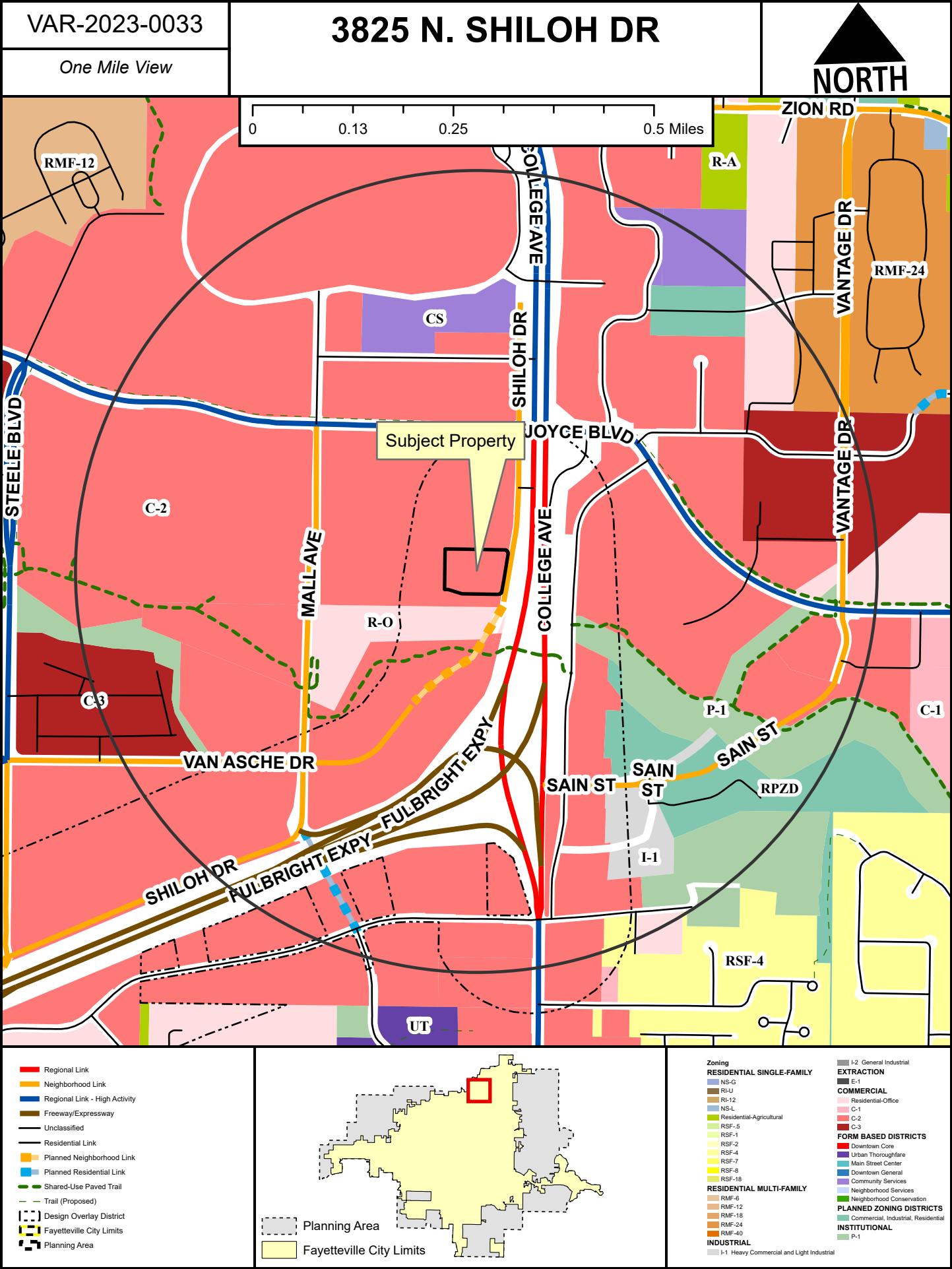
Jorge Du Quesne

Engineering | Director
jorge@blewinc.com
(479) 633-7654 Mobile

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www.blewinc.com





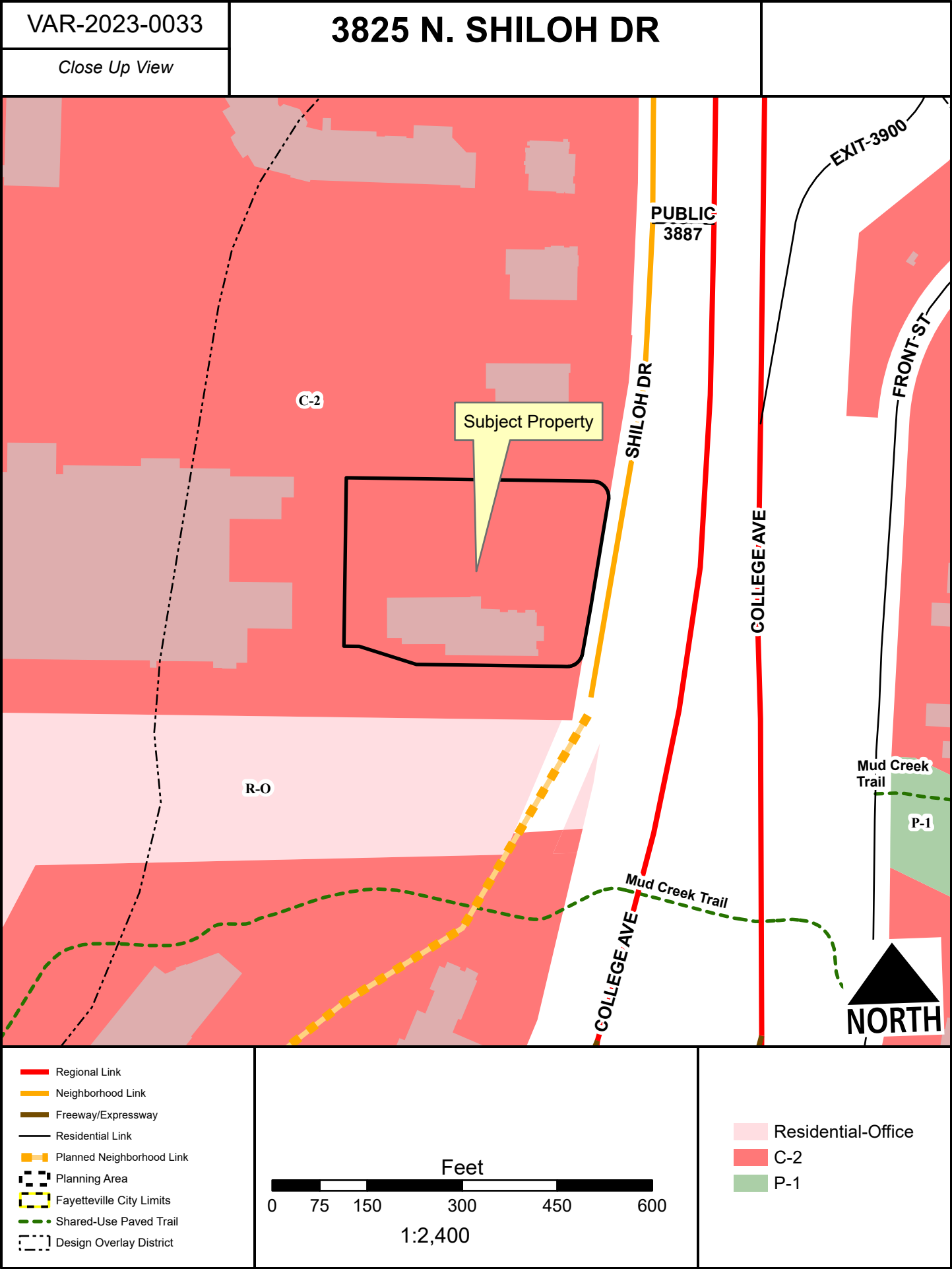
Planning Commission

August 14, 2023

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VAR-2023-0033 (CAJAKAJO INVESTMENTS)

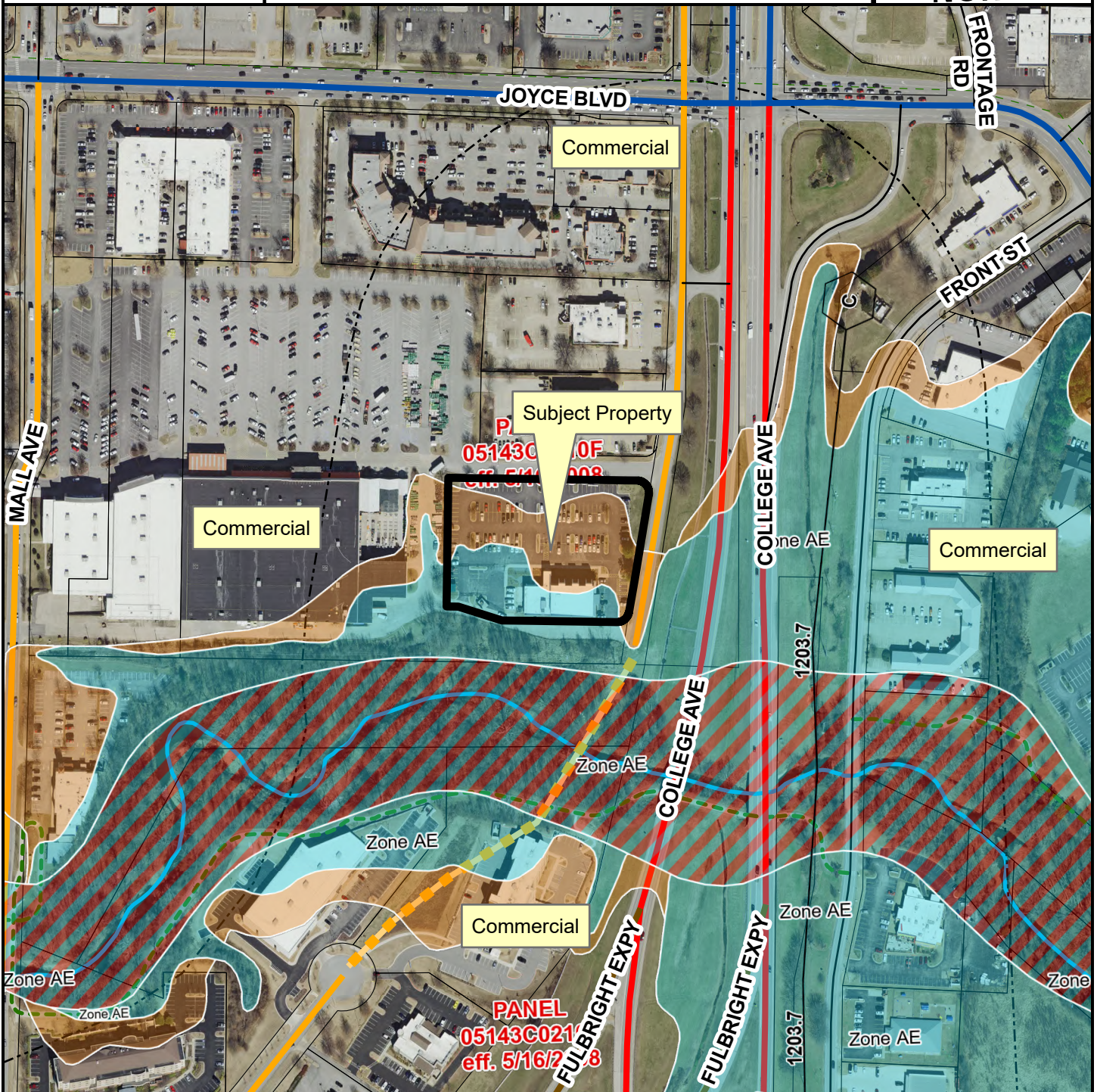
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VAR-2023-0033

3825 N. SHILOH DR

Current Land Use



- Regional Link
- Neighborhood Link
- Regional Link - High Activity
- Freeway/Expressway
- Residential Link
- Planned Neighborhood Link
- Trail (Proposed)
- Planning Area
- Fayetteville City Limits
- Design Overlay District

Feet

0 112.5 225 450 675 900

1:3,600

FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Senior Planner

MEETING DATE: August 14, 2023

SUBJECT: **VAR-2023-0035: Variance (822 N. GARLAND AVE./OSMENT, 444):**
Submitted by OLSSON for property located at 822 N. GARLAND AVE. The property is zoned CS, COMMUNITY SERVICES and contains approximately 0.14 acres. The request is for a variance from the Master Street Plan.

RECOMMENDATION:

Staff recommends approval of **VAR-2023-0035** based on the findings contained in this report.

RECOMMENDED MOTION:

*"I move to approve **VAR-2023-0035**, determining:*

- In favor of a variance to UDC §166.11 and*
- In favor of all other conditions as recommended by staff."*

BACKGROUND:

The subject property is located at the southeast corner of Garland Avenue and Berry Street approximately 600 feet north of the University of Arkansas main campus. It contains roughly 0.14 acres and it received its current zoning designation of CS, Community Services as a result of a rezoning last year. The property is currently developed with a single-family dwelling which was built in 1936, though the applicant has submitted plans to redevelop the property with a multi-family development containing six two-bedroom units. Surrounding land uses and zoning is depicted in *Table 1*.

Table 1:
Surrounding Land Uses and Zoning

Direction	Land Use	Zoning
North	Multi-Family Residential	CS, Community Services
South	Multi-Family Residential	RMF-40, Residential Multi-Family, 40 Units per Acre
East	Multi-Family Residential	RMF-40, Residential Multi-Family, 40 Units per Acre
West	Undeveloped	R-O, Residential-Office

Request: The applicant is requesting a variance to UDC §166.11 which requires that all projects conform to the official plans and regulations that make up the City's Master Street Plan. Specifically, the applicant is requesting to vary from the street section for a Residential Link street to include a second parking lane on the south side of Berry Street along the property's frontage.

Public Comment: To date, staff has received no public comment on this item.

DISCUSSION:

Staff is supportive of this variance request. The applicant has stated that on-street parking is needed in order to provide sufficient parking for a planned residential development, which requires a total of 12 parking spaces, and eight if all reductions are utilized, based on the parking allowances outlined in UDC §172.05. The applicant has stated that on-street parking is needed on the south side of Berry Street since the property is only about 37 feet wide and has a considerably steep average slope of 10 percent. Staff acknowledges that the narrowness of the site coupled with topographic constraints that require allocating additional space for a retaining wall presents challenges related to the provision of off-street parking. However, staff also finds that the lack of space available for parking may be a self-imposed hardship since reducing the number of units on site would reduce the number of parking spaces required and potentially eliminate the need to variance from the Master Street Plan. Nevertheless, staff is supportive of the applicant's request for a second on-street parking lane along Berry Street. The subject property is located in a complete, compact, and connected neighborhood that contains small blocks and a high intersection density, and Berry Street currently serves as a local street with a low traffic volume. Based on aerial imagery and visits to the site, vehicles frequently park along both sides of Berry Street, so the addition of a second parking lane along the property's frontage could improve traffic safety by allocating enough space to formally accommodate two drive lanes and a second parking lane.

RECOMMENDATION: Staff recommends approval of **VAR-2023-0035** with the following conditions:

Conditions of Approval:

1. **Planning Commission determination of a variance to UDC §166.11, Conformance to Plans and Regulations, which requires that all projects comply with the Master Street Plan. Staff is supportive of this variance based on the findings herein, and**
2. Approval of this variance does not constitute approval of the associate development application. Review and approval of the development shall be required in accordance with city code.

PLANNING COMMISSION ACTION:			
Required	<u>YES</u>		
Date: <u>August 14, 2023</u>	☐ Tabled	☐ Approved	☐ Denied
Motion:			
Second:			
Vote:			

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

- Unified Development Code
 - §166.11, Conformance to Plans and Regulations
- Applicant Request Letter
- Site Plan
- One Mile Map
- Close-Up Map
- Current Land Use Map

166.11 Conformance To Plans And Regulations

- (A) *Conform to Plans and Regulations.* The subdivision shall conform to the official plans and regulations that make up the Comprehensive Land Use Plan including the Future Land Use Plan, the Master Street Plan, access control, setback ordinances, the Community Facilities Plan and Zoning, Chapters 160 through 164.
- (B) *Reserve Sites for Public Use.*
- (1) For a period of six (6) months after submitting application for approval of a preliminary plat with the Planning Commission, the Planning Commission may require the subdivider to reserve sites for public use that are indicated within the boundaries of the proposed subdivision which are indicated on an officially adopted plan, to permit the public board, commission, or body having jurisdiction, or financial responsibility, the opportunity to acquire said sites.
 - (2) The subdivider at his or her option may provide such areas or may be required to make them available for acquisition by the city under statutory procedure. All such areas shall be maintained at the expense of the city or other body which may be involved.
- (C) *Future Acquisition.* The Planning Commission may require the subdivider to establish building lines to allow for future acquisition of right-of-way for streets on the Master Street Plan.
- (Code 1965, App. A., Art. 8(10.1); Ord. No. 1747, 6-29-70; Ord. No. 3073, 3-19-86; Code 1991, §160.119; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4919, 9-05-06; Ord. No. 6350, §5(Exh. D), 8-18-20)



July 17, 2023

City of Fayetteville

Attn: Planning Commission
113 W. Mountain St.
Fayetteville, AR 72701

RE: Proposed Townhouses
822 North Garland Avenue
Variance Request

Dear Planning Commission Members,

A developer is proposing to build a new, three-story, 2,980 SF per story, set of Townhouses on the ±0.1-acre property at 822 N Garland Avenue in Fayetteville, Arkansas.

With 6 two-bedroom units, the raw number of required parking by the city is 12. Through local transit and bike-rack reductions, the adjusted number of spaces required is 8. The current proposal is to provide exactly 8 parking spaces.

Variance Request

The site is posed with a difficult issue of its very narrow depth, coupled with a considerably steep average site slope of 10 percent.

Additionally, conformance with Fayetteville's Master Street plan has impacted the northern property line. Matching the Master Street plan's design and Right-of-Way requirements causes the property line to shift south by 3.33 feet. This directly impacts the Community Services zoning setback requirements. Ch. 161.22-E establishes a build-to zone that will be reduced because of the property line shift. As shown in the attached exhibit, a site depth of roughly 37 feet is all that is available for the proposed building type and parking. In conjunction, due to the parking requirements, it is necessary for the townhouses to provide 8 parking stalls at a minimum to serve these units.

In order to do so, additional on-street parking stalls are being proposed. This provides for on-street parking on both sides of W. Berry Street. The addition of on-street parking on the south side of Berry Street does not conform to the Master Street Plan cross-section for this classification of road. Due to the minimum traffic anticipated along Berry Street as well as the added benefits of traffic calming that on-street parking provides, we believe this to be a request that promotes the safety and well-being of the public that utilize this corridor.

Community Services Zoning, especially in the surrounding area, is geared towards the accommodation of services, commercial or residential, to an area in need of development. The addition of these multi-family townhomes would very much embody that principle. With an urban form being the primary focus of this zoning and surrounding area, the addition of on-street parking on the south side of W. Berry Street, accomplishing said focus, and following suit with similar developments close by. With all this in mind, we request the variance on the additional on-street parking.

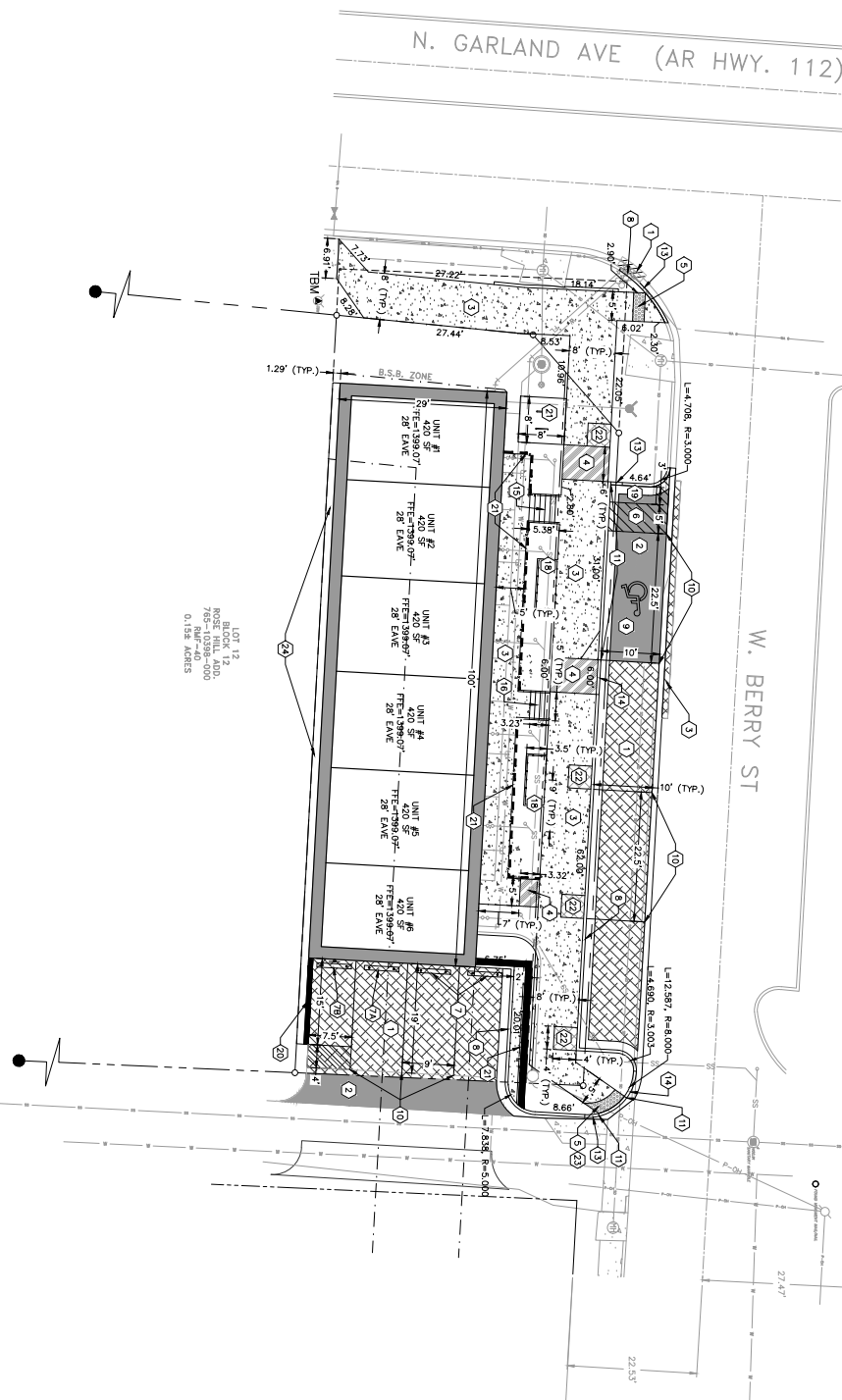
Should you have any questions, please contact me at 501.733.2240 or at mloos@olsson.com.

Sincerely,



Matthew K. Loos, P.E.

Olsson Project Manager



- | KEYNOTES: | |
|-----------|---|
| 1 | INSTALL LIGHT DUTY ASPHALT PAVEMENT |
| 2 | INSTALL 5" LIGHT DUTY CONCRETE PAVEMENT |
| 3 | INSTALL 4" CONCRETE SIDEWALK |
| 4 | INSTALL CONCRETE SIDEWALK RAMP |
| 5 | INSTALL TRUNCATED DOWNS |
| 6 | LOADING/NO-PARKING ZONE |
| 7A | INSTALL CONCRETE WHEEL STOP |
| 7B | INSTALL CONCRETE WHEEL STOP WITH COMPACT PARKING SIGN |
| 8 | CONSTRUCT STANDARD CURB & GUTTER |
| 9 | ADA VAN ACCESSIBLE STALL |
| 10 | WHITE 4" WIDE STRIPING PER MUTCD STANDARDS (SEE PAVEMENT MARKING NOTES ON THIS SHEET) |
| 11 | INSTALL CONCRETE CURB FLUSH WITH PAVEMENT |
| 12 | INSTALL DOUBLE BAYE RACK ON CRUSHED STONE SURFACE |
| 13 | PROVIDE 2' CURB TRANSITION TO PAVEMENT |
| 14 | PROVIDE 4' CURB TRANSITION TO PAVEMENT |
| 15 | INSTALL 8 CONCRETE STEPS AT 0.5' ELEVATION INTERVALS |
| 16 | INSTALL 5 CONCRETE STEPS AT 0.4' ELEVATION INTERVALS |
| 17 | INSTALL CONCRETE WHEEL STOPS |
| 18 | INSTALL WOOD FENCED GARBAGE ENCLOSURE ON CRUSHED STONE WITH GATE AND LATCH |
| 19 | MOTORCYCLE/SCOOTER PARKING |
| 20 | CONSTRUCT STRUCTURAL WING WALL REFER TO STRUCTURAL PLANS |
| 21 | INSTALL STEEL SAFETY RAILING |
| 22 | INSTALL TREE GRATES |
| 23 | DETECTABLE WARNING PAVEMENT PERPENDICULAR TO ALLEY CROSSING |
| 24 | INSTALL CONCRETE CHANNEL |

[illegible]

BENCHMARK: TOTAL GREEN SPACE:

TRM #1
FIRE HYDRANT—
TOP OPERATING NOT
ELEV. = 1405.11

SITE AREA = 0.15 AC. (6,411 S.F.)
TOTAL GREEN SPACE, PREVIOUS AREA
PROVIDED = 1,290 S.F. (20.1%)

IMPERVIOUS AREA:

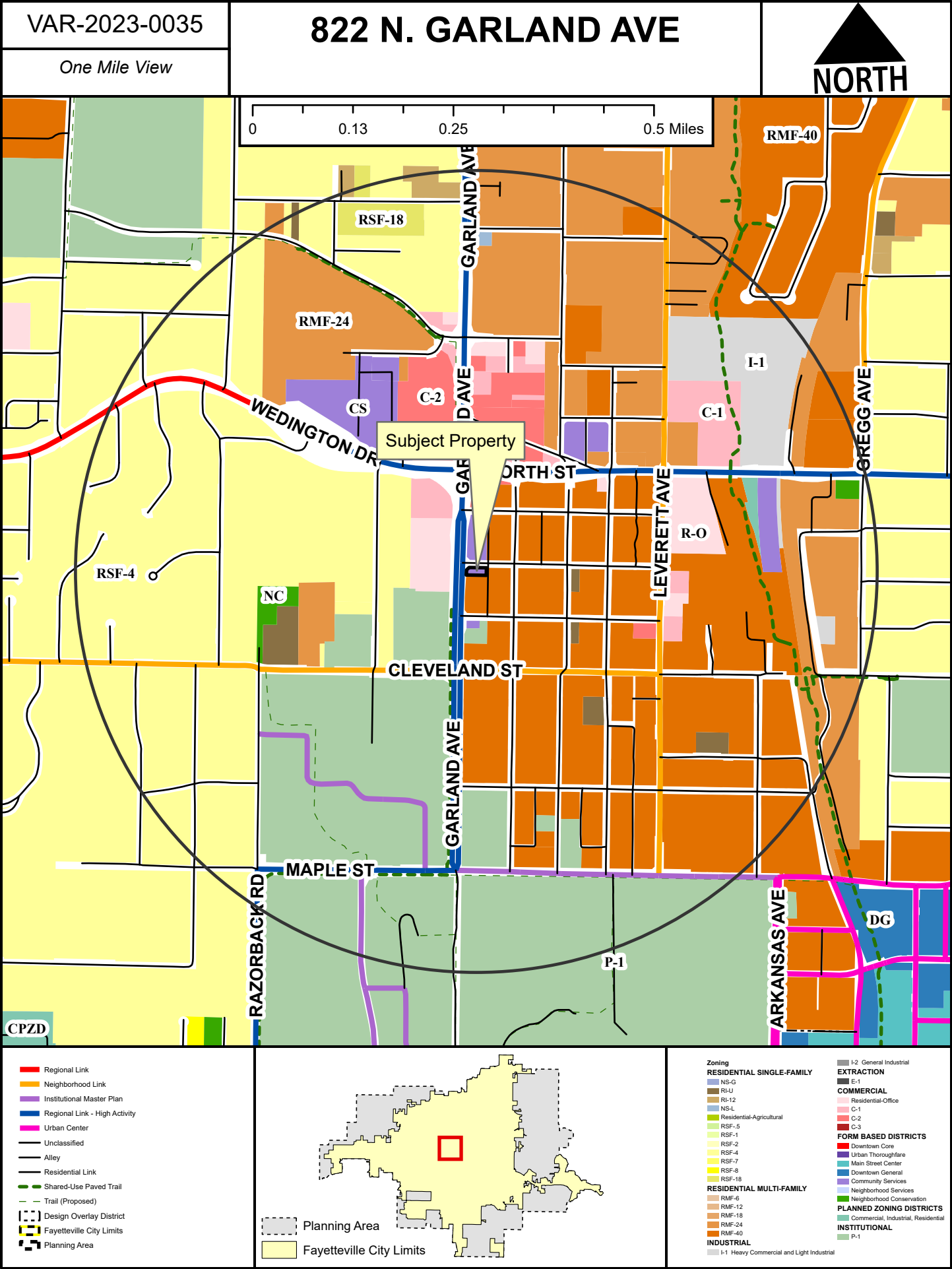
PROVIDED IMPERVIOUS AREA
= 5,212 S.F. (79.9%)

	REV. NO.	DATE	REVISIONS DESCRIPTION	BY
2023			REVISIONS	

05/04/2023

Olsson

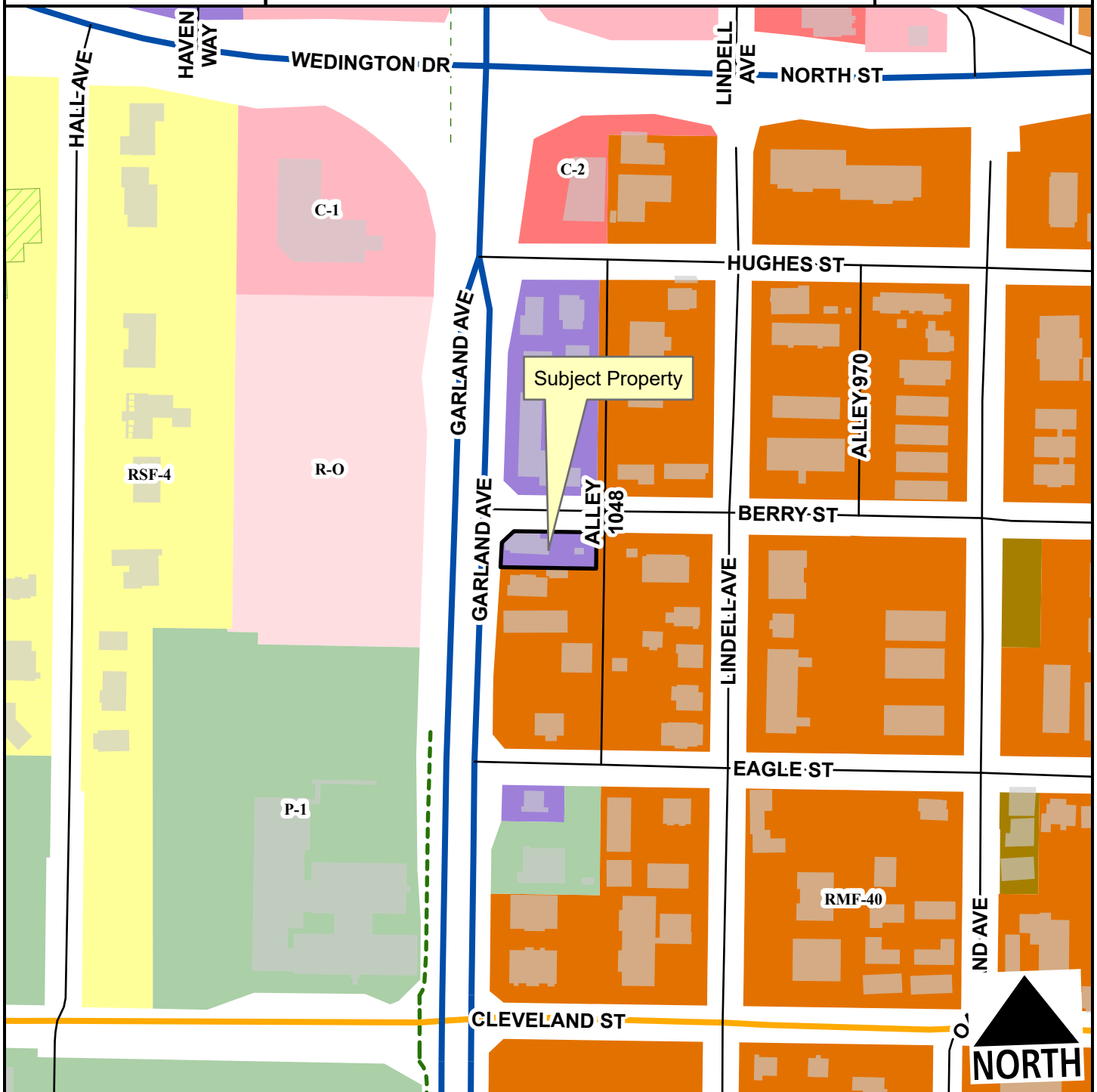
Planning Commission
August 14, 2023
302 East Millsap Road
Affinity 1100 Zoning EL 47-1-330-0001 Olsson.com



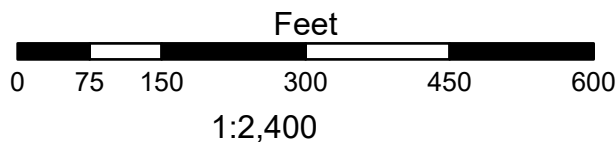
VAR-2023-0035

822 N. GARLAND AVE

Close Up View



- Neighborhood Link
- Regional Link - High Activity
- Unclassified
- Alley
- Residential Link
- Hillside-Hilltop Overlay District
- Planning Area
- Fayetteville City Limits
- Shared-Use Paved Trail
- Trail (Proposed)



- RSF-4
- RI-U
- RMF-24
- RMF-40
- Residential-Office
- C-1
- C-2
- Community Services
- P-1

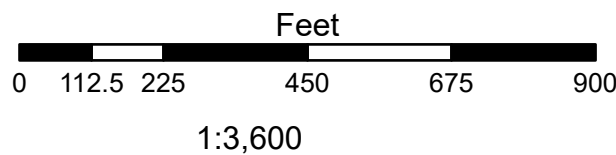
VAR-2023-0035

822 N. GARLAND AVE

Current Land Use



- Neighborhood Link
- Institutional Master Plan
- Regional Link - High Activity
- Unclassified
- Alley
- Residential Link
- Trail (Proposed)
- Planning Area
- Fayetteville City Limits



FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway



TO: Fayetteville Subdivision Committee

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner
Melissa Boyd, Staff Engineer
Melissa Evans, Urban Forester

MEETING: August 14, 2023

SUBJECT: **LSD-2023-0007: Large Scale Development (SOUTH OF 2530 N. COLLEGE AVE./CRYE LEIKE NEW FACILITY, 290):** Submitted by HOPE CONSULTING for property located SOUTH OF 2530 N. COLLEGE AVE. The property is zoned C-2, THOUROUGHFARE COMMERCIAL and contains approximately 2.26 acres. The request is for a 17,001 square foot commercial building and associated parking.

RECOMMENDATION:

Staff recommends forwarding **LSD-2023-0007** to the full Planning Commission with conditions.

RECOMMENDED MOTION: *"I move to forward **LSD-2023-0007** to the full Planning Commission, recommending:*

- 1. In favor of recommended right-of-way dedication;*
- 2. In favor of recommended street improvements;*
- 3. Denial of a variance to §166.08(F)(2)(a): Curb Cut Separation;*
- 4. In favor of a variance to §166.25(D)(2): Shared Drives and Cross Access*
- 5. All other conditions as recommended by staff."*

BACKGROUND:

The subject property is located on the east side of N. College Ave. between E. Township St and E. Sunbridge Ave. The property is zoned C-2, Thoroughfare Commercial and is part of the 71B Corridor Plan area. The parcel was previously developed with a commercial building / parking lot. The dilapidated commercial building was removed in late 2022 but the parking lot was not. Surrounding land uses and zoning are depicted in *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Tavern / Bar	C-2, Thoroughfare Commercial
South	Eating Places, Hair Salon	C-2, Thoroughfare Commercial
East	Undeveloped	RMF-24, Residential Multi-Family, 24 Units per Acre
West	Eating Places / Retail	C-2, Thoroughfare Commercial

Proposal: The applicant requests Large Scale Development approval to develop the subject property with a 17,001 square foot commercial building and associated parking. Two variances to the Unified Development Code were requested with the application as described below:

Variance #1 §166.08(F)(2)(a): Curb Cut Separation. Where a curb cut must access the regional link, it shall be located a minimum of 250 feet from an intersection or driveway. The property currently has five driveways. As proposed, the plans maintain the approximate location of driveway 2 (see existing driveway exhibit) approximately 86 feet from the driveway on the adjacent property. A new driveway to the north is proposed approximately 36 feet from the driveway on the adjacent parcel. The northernmost existing driveway is approximately 60 feet from the adjacent driveway, meaning the new proposed location for this driveway worsens an existing non-conformity.

- *Staff recommendation:* Staff recommends denial of the applicant's request. UDC section 166.08 limits the distance between of curb cuts onto a regional link to a minimum of 250 feet, and states that "When necessary, curb cuts along regional links shall be shared between two (2) or more lots." The intent of section 166.08 Street Design and Access Standards is to ensure that development is designed to be inherently safe, walkable, and efficient for the facilitation of traffic and pedestrian movements. Due to the construction of a new primary structure, any non-conforming access features are required to be brought into compliance with all applicable access management standards. Staff finds that allowing the two proposed driveways in their current positions would allow and possibly exacerbate an existing public traffic hazard to continue. Eight driveways currently access N. College Ave. within 50' of the parcel edges on the eastern side with another six on the western side. There have been 14 vehicle crashes (including one with a non-incapacitating injury and three with possible injuries) within 50 feet of the property boundaries between 2017 and 2021.

The 71B Corridor Plan generally calls for reducing the number of driveway cuts and turning conflicts, improving major points of congestion and accident clusters, and improving the pedestrian environment. Specifically, the proposed commercial development is designated as part of "Uptown District" which the plan states should have "aligned and shared driveway cuts" and "maximum interconnection of interior drives to form slip lanes and incorporation of large rear service and drive areas into the overall circulation system across property lines." While this is outside the area of the current public improvement plans to consolidate the number of driveways onto N. College Avenue, this parcel would be included in a future phase. However, newly installed driveways are not typically included in driveway consolidation plans, meaning that any driveways approved in this large-scale development are likely to remain as constructed.

Staff does not find that a hardship is present for the property. The letter notes the reduction of the number of driveways from five to two; however, no explanation is provided for the current driveway location. The property has approximately 390 feet of street frontage, which is enough for curb separation of about 200 feet from both the existing driveway to the north and south if a single driveway was centered between them. While staff acknowledges the reduction of total driveways, the intent of Chapter 166.08(C) states that street access management standards "shall apply to land which is proposed to be developed with new primary structures." As a new primary structure is proposed, any driveways are required to meet ordinance. If the driveway count is reduced to one, the city engineer could administratively approve a reduction of driveway separation requirements. The applicant's letter does not indicate either the administrative reduction or a shared driveway option have been pursued.

If approved in the current locations, staff recommends a condition be added that the northern curb cut be restricted to right-in/right-out only with a splitter island to prohibit left turns entering and exiting the site. The splitter island may be mountable if required by Fire.

Variance #2 §166.25(D)(2): Driveways. Shared drives and cross access between properties shall be encouraged to adjacent developed and undeveloped properties. The development proposes a stub-out to the north aligning with the parking lot drive aisles. No cross-access is currently proposed to the south or east. The applicant cites significant topographical challenges on the property.

- *Staff recommendation:* Staff recommends approval of the applicant's request. UDC section 166.25 is intended to address issues of traffic, safety and crime prevention through site design standards that promote traffic flow between commercial, office, and mixed-use developments. Staff acknowledges significant topography to the east and south that create a hardship in establishing the required cross access in these areas. Additionally, the eastern portion of the property is proposed as tree preservation, limiting development potential in this area. Given the topographical challenges of providing a pedestrian connection directly to the south or east, staff recommends a second pedestrian connection to the public ROW be added near the southern property boundary to improve pedestrian circulation from the south (see attached staff exhibit).

Right-of-Way to be Dedicated: The subject property has frontage along N. College Ave. which is classified as a Regional Link- High Activity Street. Regional Link-High Activity streets typically require 48 feet of right-of-way from the centerline of the road. Staff recommends and the applicant proposes right-of-way dedication in the amount of 48 feet from centerline in line with the typical standards.

Street Improvements: N. College Ave. is an existing paved street with curb, gutter, and stormwater improvements. Staff recommends N. College Ave. is constructed with a 10-foot trail and 10-foot greenspace on the east side of the street. The applicant is proposing a street section with a 10-foot trail and 10-foot greenspace on the east side of the street. Staff does not recommend, and the applicant does not propose altering the existing curb location and stormwater system along N. College Ave.

Access Management/Connectivity: Staff determined that the project does not meet access and connectivity requirements. Two driveways are proposed along N. College Avenue, a Regional Link – High Activity Street which requires a separation distance of 250 feet. Neither proposed driveway meets access management standards for curb cut separation (see variance request above). A variance to connectivity standards has been requested and is summarized above.

Design Standards: As a commercial development, this proposal is subject to §166.25, Commercial, Office, and Mixed-Use Design Standards. Staff has determined that the applicant has sufficiently demonstrated how applicable architectural design standards will be met. The dumpster enclosure was relocated in the latest submittal, and Solid Waste has not yet confirmed if the new location meets their access requirements.

Water and Sewer System: The applicant is proposing to extend approximately 110 linear feet of 8" water main and 260 linear feet of 6" fire line to provide domestic water and fire protection to

the development. The applicant also proposes to connect a 6" private service line to an existing sewer manhole along College Ave.

Parkland dedication or fee in-lieu: N/A. This property is not subject to parkland dedication requirements.

Tree Preservation:

Canopy minimum requirement: 15%

Existing canopy: 34.9%

Preserved canopy: 22.3%

Mitigation required: Zero (0) two-inch caliper trees

Public Comment: Staff have not received public comment on the item.

RECOMMENDATION: Staff recommends approval of **LSD-2023-0007** based on the above report, with the following conditions:

Conditions of Approval:

1. **Planning Commission determination of right-of-way dedication.** *Staff recommends right-of-way dedication in the amount of 48 feet from the centerline of the N. College Ave.*

Subdivision Committee recommended in favor.

2. **Planning Commission determination of street improvements.** *Staff recommends N. College Ave. is constructed with a 10-foot trail and 10-foot greenspace on the east side of the street.*

Subdivision Committee recommended in favor.

3. **Planning Commission determination of variance to UDC §166.08(F)(2)(a): Curb Cut Separation.** *Staff recommends denial of the variance for the reasons stated above. If approved, staff recommends the following conditions:*
 - a. The northern curb cut be restricted to right-in/right-out only with a splitter island to prohibit left turns entering and exiting the site. The splitter island may be mountable if required by Fire.

Subdivision Committee recommended denial.

4. **Planning Commission determination of variance to UDC §166.25(D)(2): Driveways.** *Staff recommends approval of the variance for the reasons stated above. If approved, staff recommends the following conditions:*
 - a. A pedestrian connection should be provided from the public ROW to the southern portion of the building.

This variance was requested after the Subdivision Committee hearing.

5. All comments from Planning staff must be addressed including:
 - a. Verify sidewalk dimension adjacent to building.

6. Streetlights must be installed at intersections and at a linear spacing distance of no more than 300 feet;
7. Conditions of approval from Engineering and Urban Forestry are included in the official conditions of approval, attached hereto;

Standard Conditions of Approval:

8. Impact fees for fire, police, water, and sewer shall be paid in accordance with City ordinance;
9. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives: Black Hills Energy, AT&T, Ozarks Electric, SWEPCO, and Cox Communications);
10. All mechanical/utility equipment (roof and ground mounted) shall be screened using materials that are compatible with and incorporated into the structure. A note shall be clearly placed on the plat and all construction documents indicating this requirement;
11. Trash enclosures shall be screened on three sides with materials complimentary to and compatible with the principle structure. Containers may also be screened from view of the street by the principal structure or vegetation. Elevations of the proposed dumpster enclosure shall be submitted to the Planning and Solid Waste Divisions for review prior to building permit;
12. All existing utilities below 12kv shall be relocated underground. All proposed utilities shall be located underground;
13. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with the City's current requirements;
14. All exterior lights shall comply with the City lighting ordinance. Manufacturer's cut-sheets are required for review and approval prior to issuance of a building permit;
15. All freestanding and wall signs shall comply with ordinance specifications for location, size, type, number, etc. Any proposed signs shall be permitted by a separate sign permit application prior to installation;
16. Large scale development shall be valid for one calendar year;
17. Contact the City's Emergency 911 Address Coordinator for addressing prior to building permit. The coordinator has noted that a separate street name is required;
18. Prior to building permit, a cost estimate for all required landscaping is to be submitted to the Landscape Administrator for review. Once approval is gained, a guarantee is to be issued (bond/letter of credit/cash) for 150% of the cost of the materials and installation of the plants. This guarantee will be held until the improvements are installed and inspected, at the time of Certificate of Occupancy; and

19. Prior to the issuance of a building permit the following is required:
- Grading and drainage permits;
 - Separate easement plat for this project that shall include the tree preservation area and all utility and access easements;
 - Exterior lighting package must be provided to the Planning Division;
 - An on-site inspection by the Landscape Administrator of all tree protection measures prior to any land disturbance;
 - Project Disk with all final revisions; and
 - Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by Section 158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.

Planning Commission Action: ☐ Denied ☐ Tabled ☐ Approved

Meeting Date: August 14, 2023

Motion:

Second:

Vote:

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

- Engineering Comments
- Urban Forestry Comments
- Variance Request Letter
- Site Plans
- Elevations
- Staff Exhibits
 - Existing Driveway Locations
 - Traffic Accident Records
 - Excerpts from 71B Corridor Master Plan, including
 - Perception of Traffic Safety Survey Results
 - Access Framework
 - Uptown Framework Diagram
 - Regulatory Recommendations
 - Staff Recommended Conditions
- One Mile Map
- Close-Up Map
- Current Land Use Map



TO: Donna Wonsower, Planner

FROM: Melissa Boyd, Staff Engineer

DATE: August 9, 2023

SUBJECT: Planning Commission Engineering Comments for
LSD-2023-0007 CRYE LEIKE

Access Management: A variance is being requested to UDC §166.08(F)(2)(a) to allow for curb cut separation less than 250 feet from adjacent curb cuts on a regional link. The site previously was served by five curb cuts along its frontage. Two curb cuts are proposed with this development, having approximately 258 feet of separation on the site. The southern curb cut is shown to have approximately 86 feet of separation from the existing curb cut on the property to the south. With the existing retaining wall, storm drain, and topographical constraints between this site the property to the south, it does not appear there could be a feasible connection between these two lots without significant modifications. The northern curb cut is shown to have approximately 36 feet of separation from the existing curb cut to the property on the north, and the applicant is proposing a stub out for cross access to that property. One curb cut on this property centered between the existing curb cuts on the adjacent properties would provide approximately 215 feet of separation.

Should the curb cut locations be approved in the locations shown, staff recommends a condition be added that the northern curb cut be restricted to right-in/right-out only with a splitter island to prohibit left turns entering and exiting the site. The splitter island may be mountable if required by Fire.

Water: The applicant is proposing to extend approximately 110LF of 8" water main and 260LF of 6" fire line to provide domestic water and fire protection to the development.

Sewer: The applicant is proposing to connect a 6" private service line to an existing sewer manhole along College Ave.

Drainage: This development is required to meet the four Minimum Standards of the Drainage Criteria Manual. A StormTech underground detention system with an isolator row is proposed. Water quality, channel protection, overbank flood protection, and extreme flood protection requirements appear to be met. Additional review to ensure comments on the drainage report are addressed will be conducted with the grading permit review.

Standard Comments:

1. All designs are subject to the City's latest design criteria (water, sewer, streets and drainage). Review for plat approval is not approval of public improvements, and all proposed improvements are subject to further review at the time construction plans are submitted.

2. Any damage to the existing public street due to construction shall be repaired/replaced at the owner/developers expense
3. All public sidewalks, curb ramps, curb & gutter, and driveway aprons along this project frontage must meet ADA guidelines and be free of damage. Any existing infrastructure that does not conform to ADA guidelines or is otherwise damaged must be removed and replaced to correct the issue. Coordinate with the engineering department for inspection of existing facilities to determine compliance.
4. Water and sewer impact fees will apply for the additional impact to the system. The fees will be based on the proposed meter size and will be charged at the time of meter set.
5. Note, the following portions of all projects will typically not be reviewed by the Engineering Division until time of construction-level review (unless specifically requested at plat review):
 - Storm Sewer pipe/inlet sizing, gutter spread, profiles, or utility conflicts
 - Sanitary Sewer pipe sizing, profiles, or utility conflicts
 - Waterline fittings, callouts, or utility conflicts
 - Street profiles
 - Fine grading/spot elevations



URBAN FORESTRY TREE PRESERVATION COMMENTS

To: Kazi Islam, PE, Hope Consulting

From: Melissa Evans, Urban Forester and John Scott, Urban Forester

CC: Donna Wonsower, Planner

Meeting Date: August 14, 2023

Subject: LSD-2023-0007: Crye Leike New Facility: South of 2530 N. College Ave.

1. Submittal Requirements	Yes	No	N/A
Initial Review with the Urban Forester		X	
Site Analysis Map Submitted (if justification is needed)			N/A
Site Analysis Written Report Submitted (justification is needed)			N/A
Complete Tree Preservation Plan Submitted	X		
Tree Mitigation Table on Plans	X		
Tree Preservation Wavier Submitted (only use if no trees onsite or near P/L)			X

2. Tree Preservation Calculations

Tree Preservation Calculations Square Feet		
	Square Feet	Percent of site
Total Site Area *Minus Right of Way and Easements	86,079	100%
Zoning Designation * Select Below with drop down arrow		
C-2, Thoroughfare Commercial	12,912	15%
HHOD * Select Below with Drop Down Arrow		
No	0	0%
Total Canopy for Minimum Preservation Requirements	12,912	15.0%
Existing Tree Canopy * Minus Right of Way and Easements	30,016	34.9%
Tree Canopy Preserved	19,231	22.3%
Tree Canopy Removed *On Site	10,785	12.5%
Tree Canopy Removed *Off Site	0	
Tree Canopy Removed Total	10,785	12.5%
Removed Below Minimum	0	
Mitigation Requirements	0	

3. Mitigation Requirements	Canopy below requirement	Number of 2" caliper trees to be planted
High Priority		
Low Priority		
Total Mitigation Trees Required	0	0

4. Mitigation Type	Yes	No	N/A
On-Site Mitigation			X
Off-Site Mitigation			X
Tree Escrow (See Conditions of Approval)			X

5. Tree Preservation Plan Checklist <i>UDC Chapter 167.04H1 and 167.04L1</i>	Tech Plat	Subdivision Committee	Planning Commission
a. 5 year Aerial Check on Existing Trees	Yes	Yes	Yes
b. Property Boundary	Yes	Yes	Yes
c. Natural Features (100ft beyond limits of disturbance)	Yes	Yes	Yes
d. Existing Topography and Proposed Grading	No	Yes	Yes
e. Soil Types	Yes	Yes	Yes
f. Significant Trees	Yes	Yes	Yes
g. Groupings of Trees	Yes	Yes	Yes
h. Table Inventory List (species, size, health, priority)	Yes	Yes	Yes
i. All Existing and Proposed Utilities	No	Yes	Yes
j. All Existing and Proposed Utility Easements and ROW's	No	Yes	Yes
k. All Streams (with approximate center line)	N/A	N/A	N/A
l. Floodplains and floodways	N/A	N/A	N/A
m. Existing Street, Sidewalk or Bike Path ROW	Yes	Yes	Yes
n. Submitted Site Analysis Plan (if required)	N/A	N/A	N/A
o. Shows ALL Proposed Site Improvements	Yes	Yes	Yes
p. Delineates trees/canopy to be preserved and removed	Yes	Yes	Yes
q. Tree Preservation Easement/s shown for LSD, LSIP and Commercial PPL projects	No	NO	NO

Tree Protection Methods			
a. Tree Protection Fencing	Yes	Yes	Yes
b. Limits of Root Pruning	N/A	N/A	N/A
c. Traffic flow on work site	N/A	N/A	N/A
d. Location of material storage	No	No	No
e. Location of concrete wash out	No	Yes	Yes

f. Location of construction entrance/exit	No	Yes	Yes
6. Site Analysis Report (if required) <i>UDC Chapter 167.04H4</i>	Yes	No	N/A
a. Provide graphic examples of multiple options used to minimize removal of existing canopy			N/A
b. Submitted Analysis Statement – Note the process, iterations, and approaches to preserve canopy.			N/A
7. Review Status (See Comments)	Tech Plat	Subdivision Committee	Planning Commission
Conditionally Approved	05-11-23	07-26-23	08-09-23
	07-19-23		
Approved			
Tabled			
Denied			

Appeal Process: A final administrative determination by the Urban Forester may be appealed in accordance with Chapter 155 of the Unified Development Code.

Comments
1. Address items above marked “No” and all Redlines provided.
2. Please adjust the Tree Preservation fence as shown on the plans.
3. Please show the Tree Preservation Easement to be dedicated on the plan. This is a requirement for LSD projects per Ch. 167 of the Unified Development Code.



URBAN FORESTRY LANDSCAPE PLAN COMMENTS

To: Kazi Islam, PE, Hope Consulting

From: Melissa Evans, Urban Forester and John Scott, Urban Forester

CC: Donna Wonsower, Planner

Meeting Date: August 14, 2023

Subject: LSD-2023-0007: Crye Leike New Facility: South of 2530 N. College Ave.

1. General Landscape Plan Checklist		Yes	No	N/A
a.	Irrigation (notes either automatic or hose bib 100' o.c.) <i>UDC Chapter 177.03C7g, 177.04B3a</i>	X		
b.	Species of plant material identified <i>UDC Chapter 177.03C7d,e</i>	X		
c.	Size of plant material (minimum size 2" caliper for trees and 3 gal. shrubs) <i>UDC Chapter 177.03C7b,c</i>	X		
d.	Soil amendments notes include that soil is amended and sod removed <i>UDC Chapter 177.03C6b</i>	X		
e.	Mulch notes indicate organic mulching around trees and within landscape beds <i>UDC Chapter 177.03C6c,d</i>	X		
f.	LSD, LSIP, and Subdivisions (PPL & FPL) plans stamped by a licensed Landscape Architect, others by Landscape Designer <i>UDC Chapter 177.03B</i>		X	
g.	Planting bed contained by edging <i>UDC Chapter 177.03C6f</i>	X		
h.	Planting details according to Fayetteville's Landscape Manual <i>UDC Chapter 177.03C6g</i>	X		
i.	Provide information about 3-Year Maintenance plan. The owner shall deposit with the City of Fayetteville a surety for approved landscape estimate. <i>UDC Chapter 177.05 A2g</i>	X		
2. Parking Lot Requirements		Yes	No	N/A
1 Tree : 12 Parking Spaces				
a.	Side and Rear Property Lines (5' Wide Landscape Area) <i>UDC Chapter 177D1</i>	X		

b. Wheel Stops/Curbs <i>UDC Chapter 177.04B1</i>	X		
c. Narrow Tree Lawn (8' min. width, 37.5' length) <i>UDC Chapter 177.04C</i>			X
d. Tree Island (8' min. width, 18.7' min length, 150 square feet) <i>UDC Chapter 177.04C</i>	X		
e. Placement of Trees (either side at entrances and exits) <i>UDC Chapter 177.04C2</i>	X		
3. Perimeter Landscaping Requirements	Yes	No	N/A
a. Front Property Line (15' wide landscape) and 5' on sides and rear. <i>UDC Chapter 177.04D2a</i>	X		
b. Shade trees planted on south and west sides of parking lots <i>UDC Chapter 177.04D2e</i>	X		
c. Screening of parking lot from adjacent residential properties.	X		
4. Street Tree Planting Requirements	Yes	No	N/A
a. Residential Subdivisions 1 Large Shade Species Tree per Lot <i>UDC Chapter 177.05B1a</i>			X
b. Non-Residential Subdivisions 1 Large Species Shade Tree every 30' (planted in greenspace) <i>UDC Chapter 177.05B2a</i>			X
c. Urban Tree Well – Urban Streetscapes Trees every 30' (8' sidewalk) <i>UDC Chapter 177.05B3a-f</i>			X
d. Structural Soil – Urban Tree Wells Include a note and/or detail of structural soil on Landscape Plan <i>UDC Chapter 177.05B3a-f</i>			X
e. Residential Subdivisions Timing of planting indicated on plans <i>UDC Chapter 177.05A4</i>			X
f. Residential Subdivisions Written description for method of tracking planting <i>UDC Chapter 177.05A4e</i>			X

5. Landscape Requirement Totals		Amount		
Mitigation Trees		0		
Parking Lot Trees		6		
Street Trees		11		
Detention Pond – Large Trees (1 Tree/3,000 square feet)		0		
Detention Pond – Small Tree/Large Shrub (4 small trees or large shrubs/3,000 square feet)		0		
Detention Pond – Small Shrubs/Large Grasses (6 shrubs or grasses (1 gallon)/3,000 square feet)		0		
6. Review Status (See Comments)		Tech Plat	Subdivision Committee	Planning Commission
Conditionally Approved		05-17-23	07-26-23	08-09-23
Approved		07-19-23		
Tabled				
Denied				

Appeal Process: A final administrative determination by the Urban Forester may be appealed in accordance with Chapter 155 of the Unified Development Code.

Comments	
1.	Address items above marked “No” and all Redlines provided.
2.	Please ensure the plan is signed and dated by the design Landscape Architect.

August 07, 2023

Donna Wonsower
City of Fayetteville Planning Department
110 E. Memorial Drive
Fayetteville, Arkansas 72703

Subject: LSD-2023—0007 Crye-Leike New Facility: South of 2530 N. College Ave.
Presented by Hope Consulting for the purpose of requesting a variance for driveway proximity on the 2.26 Acre Parcel referenced above and a variance for not having cross access to South and East.

Dear Donna,

Thank you for the opportunity to present this variance request. This property currently has 5 curb cuts and drives into this parcel. Our new design reduces the number of drives to two curb cuts for access into this 2.26 acre parcel. Our drive separation meets the required 250 feet of separation on our property. The adjacent property owners on each side do have existing driveways near our proposed driveways. The proximity of the existing driveways and our new driveways requires a variance per UDC 166.08(F)(2)(a). I believe consideration should be given to our reduction in driveways from five existing to our proposed two driveways.

We are requesting a variance per 166.25(D)(2) Shared Access Drives and Cross Access to the South or East side of the property. There are significant topographical challenges on the South and East side of the property. Hence, we are providing a cross access to the North side. I believe with the provided cross access to the north we can satisfy proper traffic circulation between our property and adjacent property.

Thank you for your consideration for this variance application.

Sincerely,

Jonathan Hope



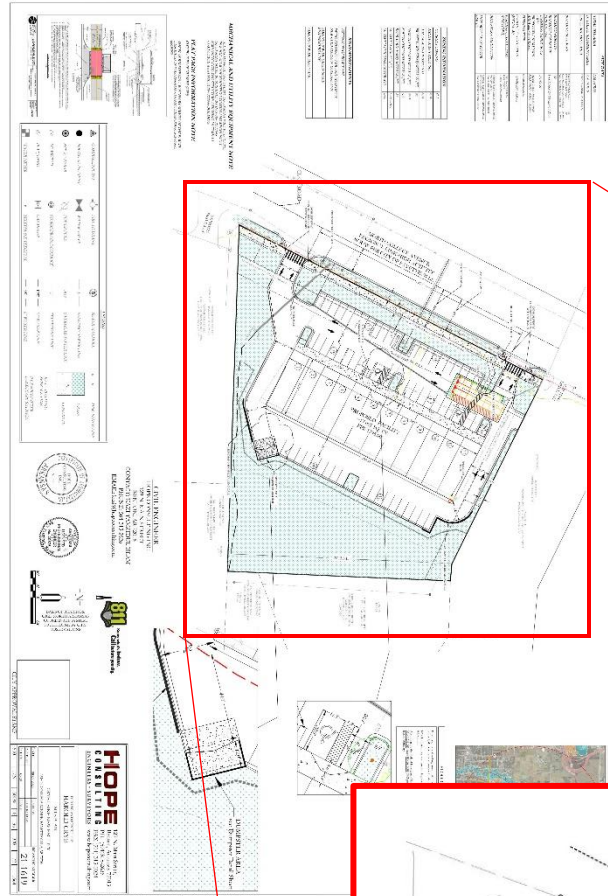
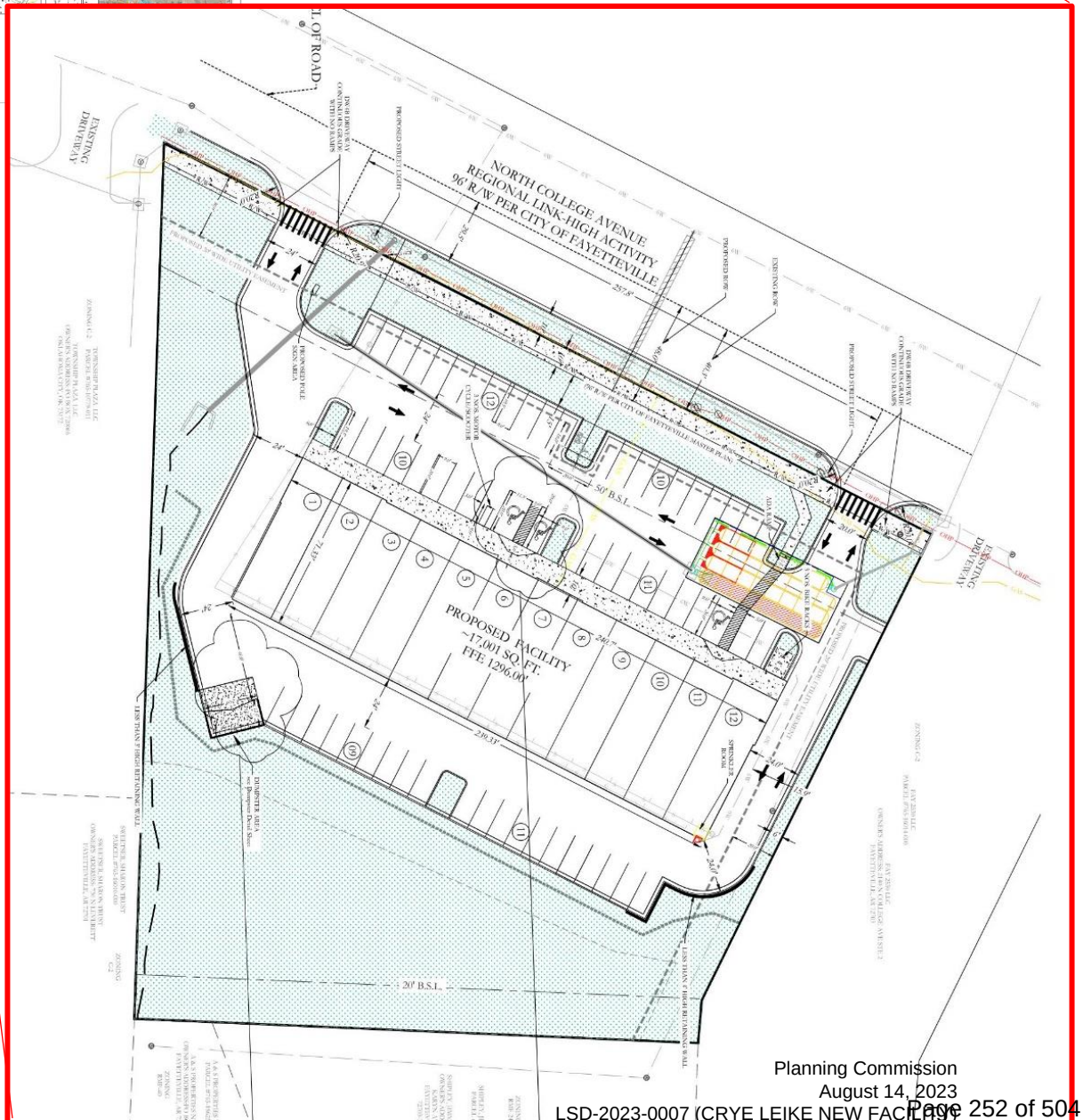
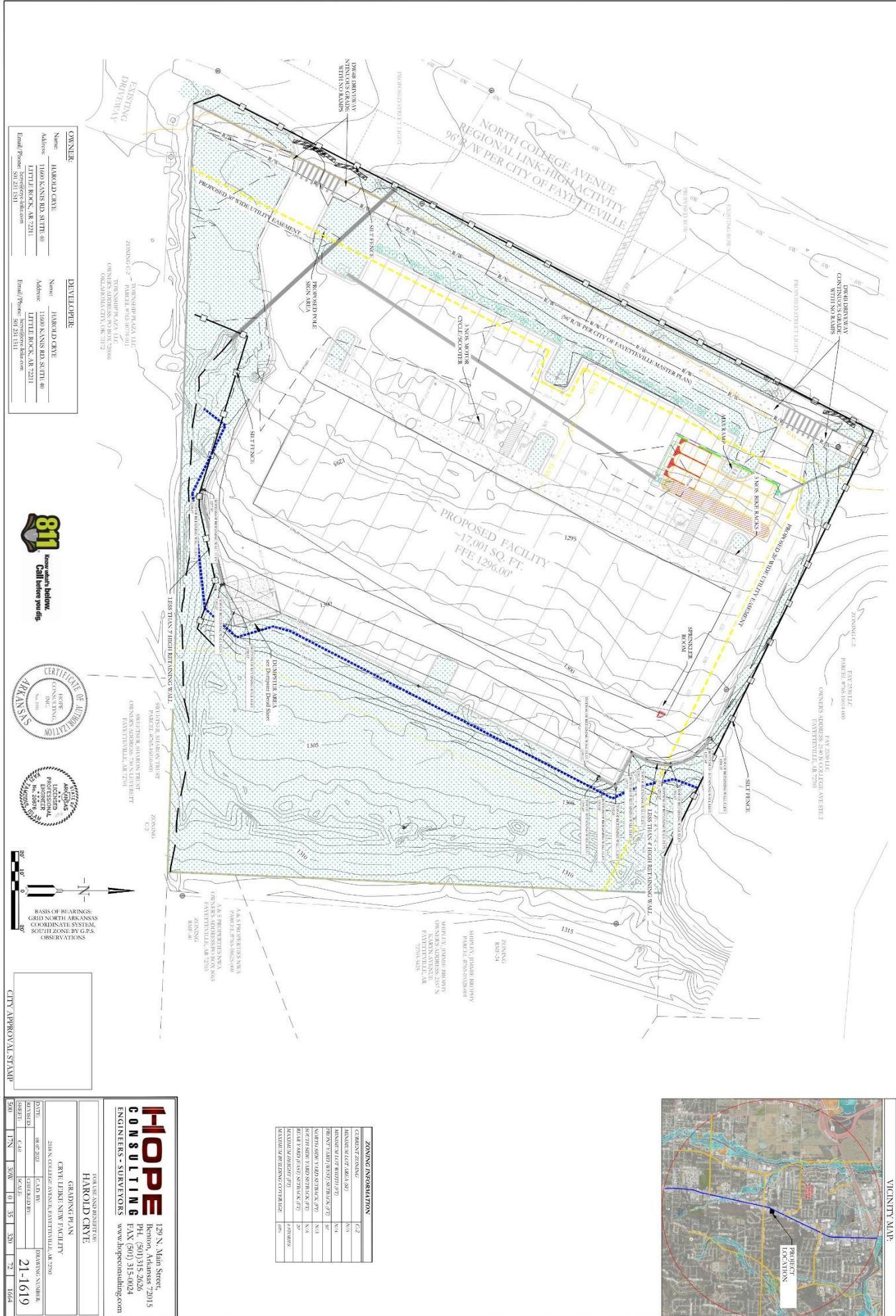
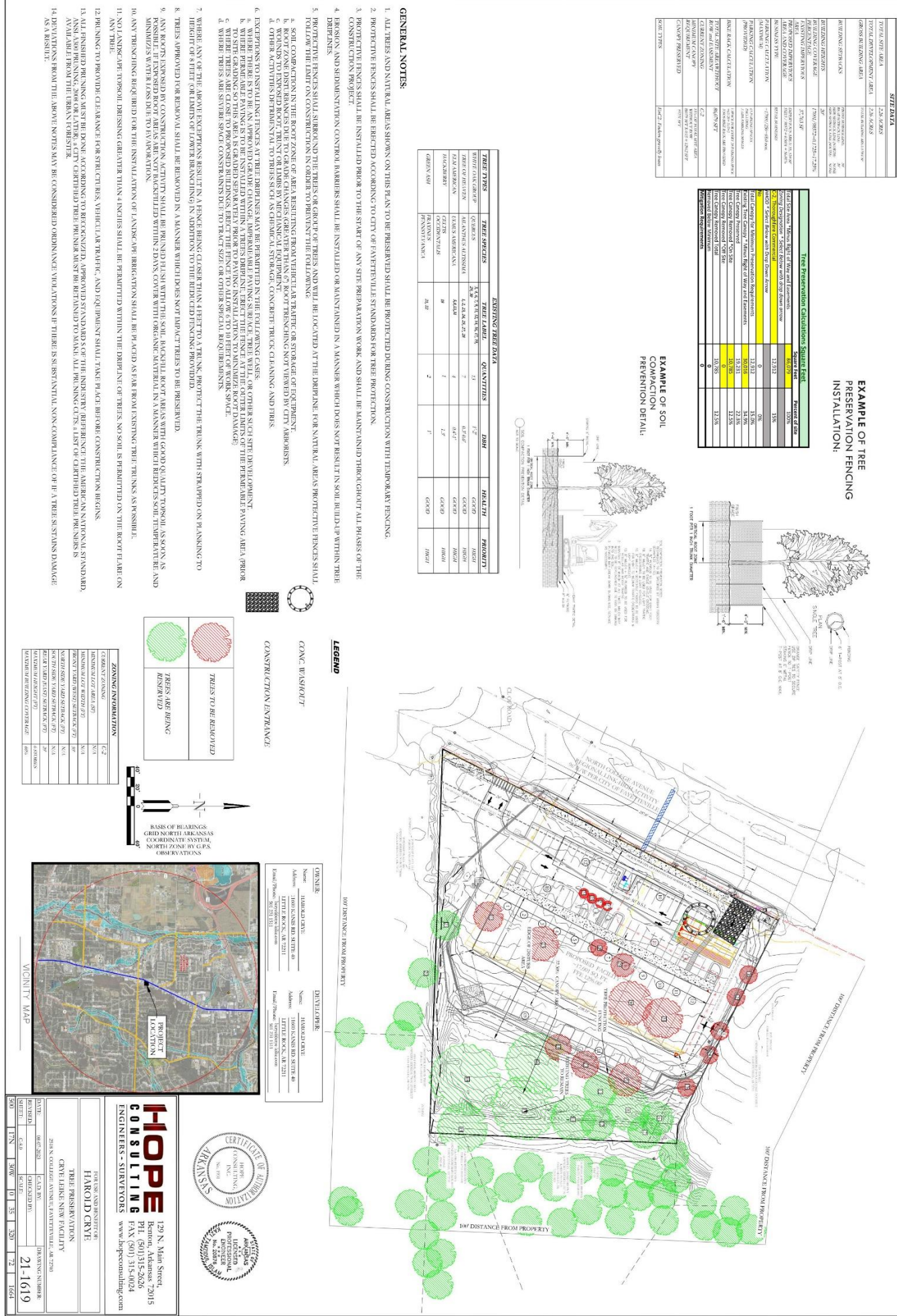


Figure 1: Site Plan and Closeup







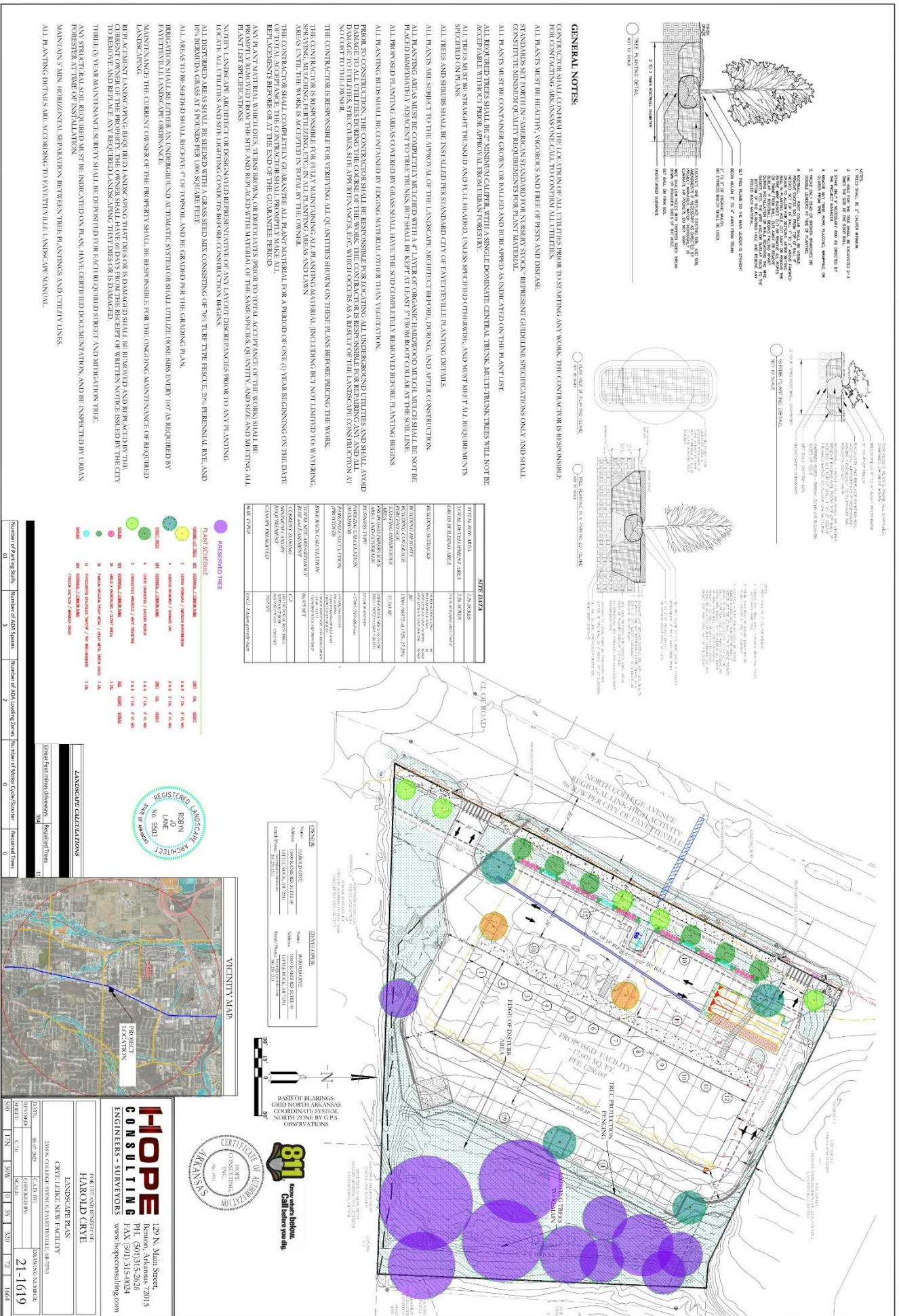


Figure 4: Landscape Plan



Figure 8: Existing Driveway Locations within 50' of Parcel Boundaries

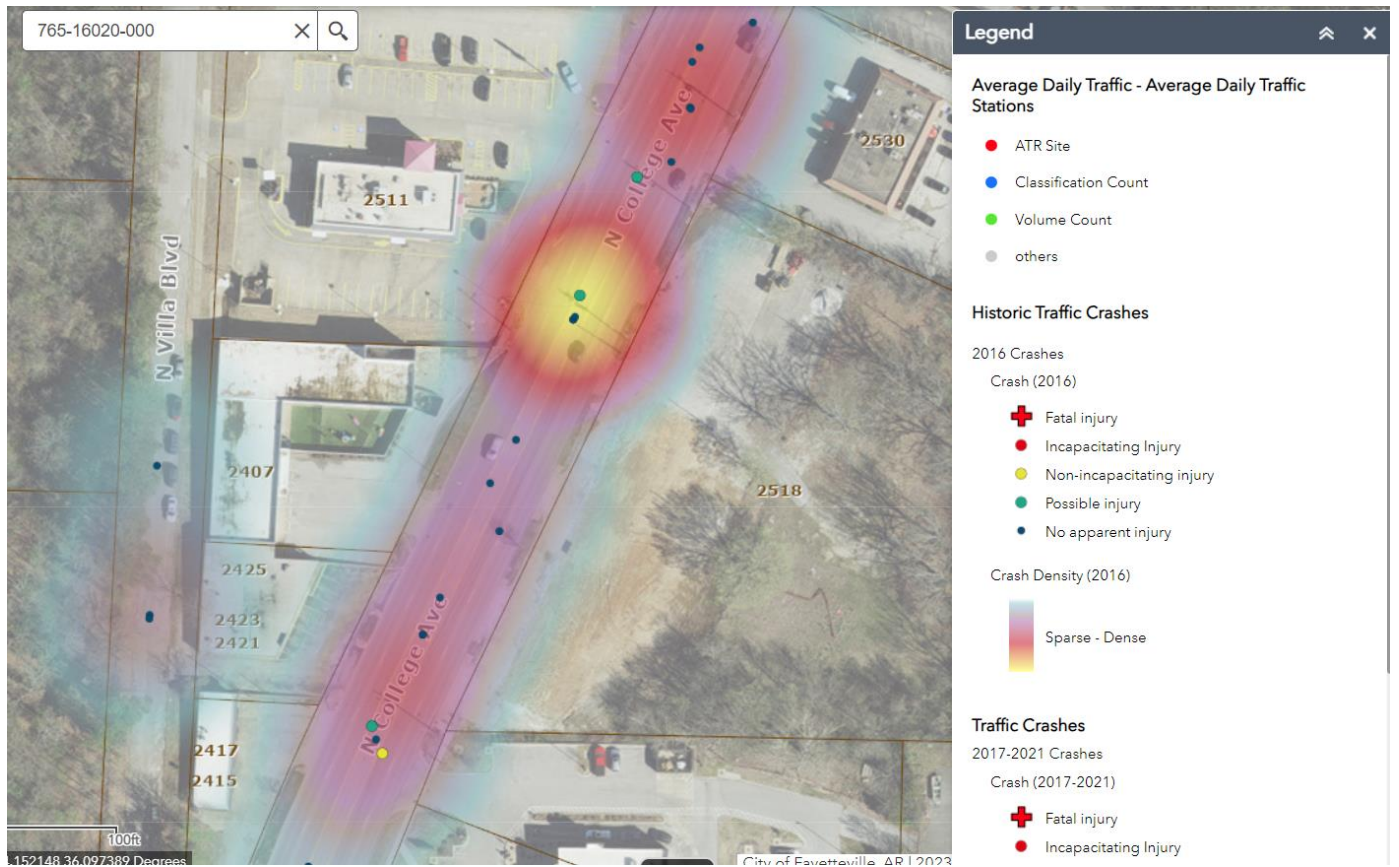


Figure 9: Overall Traffic Accident Exhibit, 2017-2021



Figure 10: Southern Entry Traffic Accident Exhibit, 2017-2021

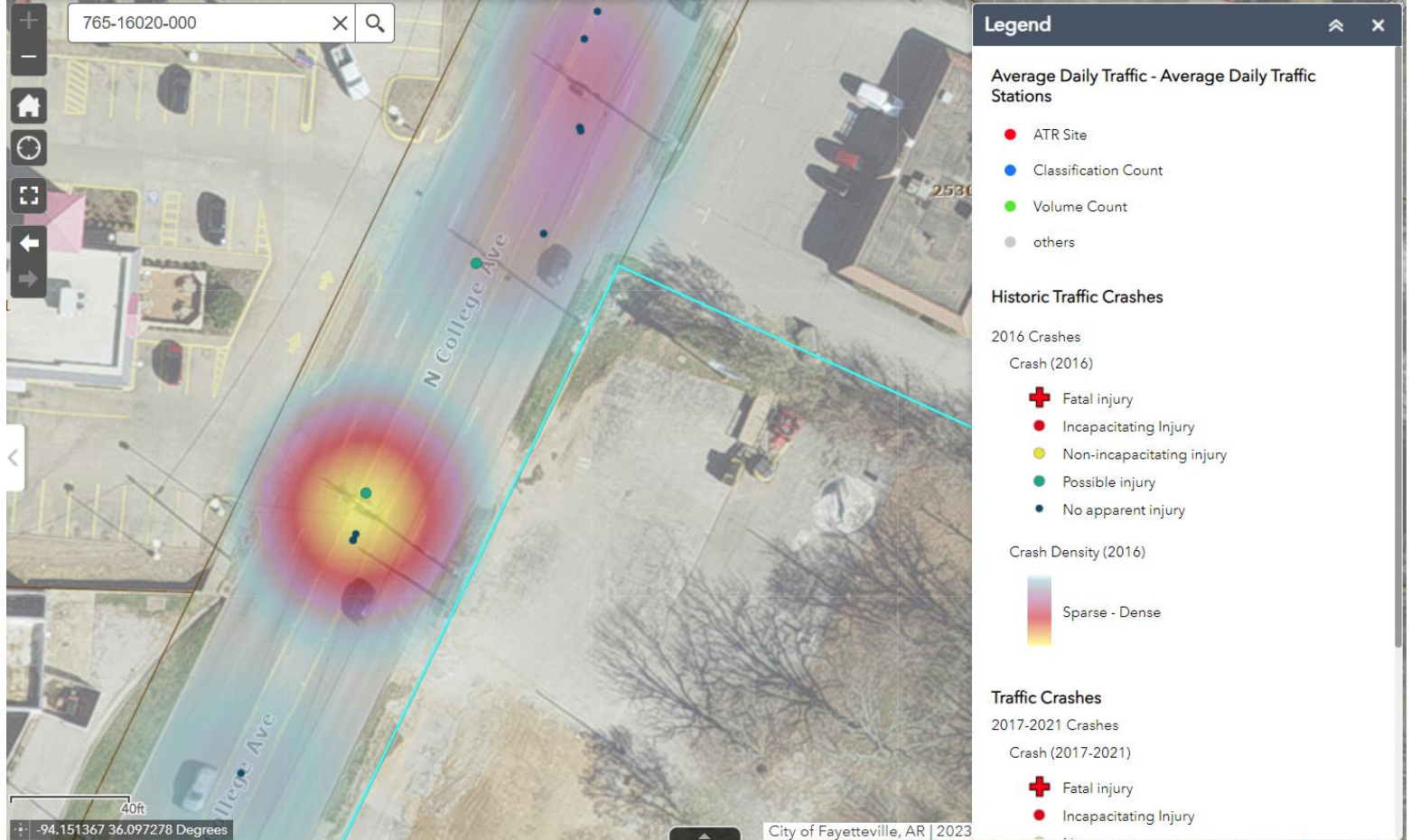
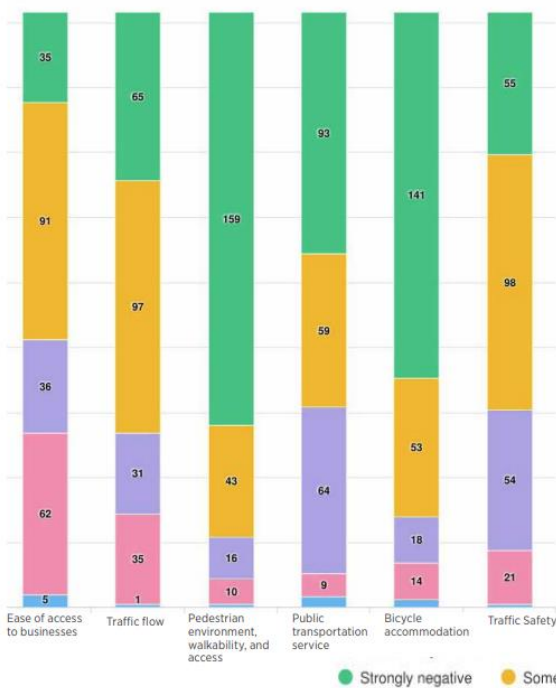


Figure 11: Northern Entry Traffic Accident Exhibit, 2017-2021

ASSESSMENT: NORTH OF NORTH STREET

Transportation Environment



Aesthetic/Visual Environment

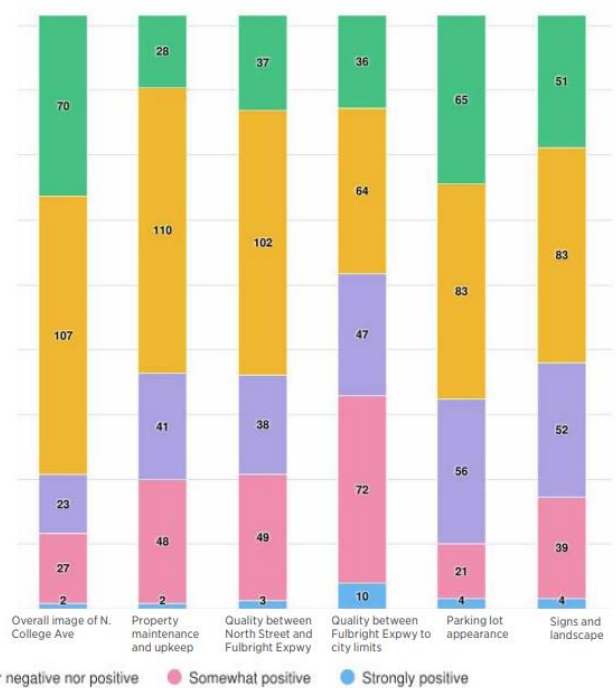


Figure 12: Public Perception of Traffic Safety, Excerpt from 21B Corridor Master Plan

THE ACCESS FRAMEWORK

Route 71B and its predecessor facilities developed as the primary transportation route through Northwest Arkansas, connecting its communities and becoming its primary artery for commerce. Appropriately, concepts for a future multi-modal, urban corridor start with the supporting transportation structure. The transportation system analysis in Chapter Two suggested that many of the functional and safety problems along 71B, and primarily the College Avenue segment, stem from a dependence on this single corridor for regional, intra-city, and local movements. This is largely caused by the lack of a web of connecting streets to provide alternatives for moving to, through, and around the corridor.

OVERALL STRATEGIES

The overall Transportation Framework, then, proposes the following strategies:

- Developing a street network that complements North College Avenue and to a lesser degree South School Avenue. This provides alternative routes for local circulation, helping to reduce congestion, traffic conflicts, and potentially crashes along the street and at major intersections.
- Managing access along the corridor and reducing the number of driveway cuts and turning conflicts. Techniques to retain good local access include building alternative routes, providing more public street intersections to replace curb cuts and improve user orientation, and establishing shared access points with better interconnections among existing parking lots and driveways.
- Modifying street sections along 71B itself to improve pedestrian and in some cases bicycle access, calming traffic where needed, and "right-sizing" segments of the corridor to be more consistent with actual traffic volume.
- Improving major points of congestion and clusters of crashes.
- Improving pedestrian and bicycle crossings of the corridor.
- Developing a parallel shared use path system that provided access to most of the corridor's present and future destinations and connects to the regional trail system, including the Razorback Greenway and the planned Sublett Creek Trail.

- Enhancing public transportation for local access and accommodating a future regional bus rapid transit (BRT) line with specific station stops.
- Using the above features to open land for future mixed-density development with a major residential component.

ACCESS FRAMEWORK COMPONENTS

The Access Framework is built on the following components, illustrated in the Access Framework Maps on successive pages.

71B Main Line

This is the main South School/Archibald Yell/College Avenue route between Cato Springs and the north city limits. Starting from the south, South School with its high capacity and relatively low volume would be converted to three-lane section (two direct and a center two-way turn lane) with protected bicycle lanes and continuous sidewalks on both sides. The Fayetteville Mobility Plan proposes a three-lane section with a shared use path and sidewalk for the Archibald Yell segment. The North College segment between North and Millsap would retain four through lanes with a raised median or a two-way center turn lane, depending on specific contexts and access needs.

Where techniques like interconnected parking lots, shared driveways, "slip lanes," redesigned parking lot circulation are feasible without adverse impact to businesses, medians would be used to reduce traffic conflicts, increase safety and pedestrian access, and improve visual quality. Where land use patterns make this impossible, two-way turn lanes will be used, using patterned pavement to provide better definition and appearance.

Existing Circulator and Collector Streets

These existing streets either complement College and South School or provide east-west access to provide alternative routes to the main corridor. They are the foundation of the local street network and can provide routes for local traffic with better connectivity. For example, Villa Boulevard and Plainview parallel College could help relieve local traffic on College. But Villa's angle of intersection with College is very acute and is currently closed and Plainview is discontinuous. Sunbridge, Drake, Appleby, Rolling Hills, Harold, Longview, and Millsap all connect to the College corridor from the west and east. However, these streets sometimes have offset intersections or lack connections to other functional streets. As a result,

this part of the corridor still depends on College for both local and regional circulation.

New Circulator/Collector Streets

New street segments can complete new routes to reduce local and turning traffic on College. Some of these new connections would also serve new development areas. The most important and promising of these is combining Appleby Drive and an extended Plainview Avenue to create a north-south parallel route. This new route establishes a new public street through the existing Fiesta Square parking lot and would ultimately connect across the Fulbright Expressway to Mall Avenue. Rolling Hills Drive would intersect to this new street with a roundabout within the current Fiesta Square site. Connections of Longview, Masonic, and Harold west to the new Plainview connection completes an effective circulation grid to relieve local traffic on College. Realignments of Masonic and relocation of the traffic signal to the south can provide a better western access for the Whole Foods center, and increase the distance between signals at Millsap and Masonic. Extending North Front south to Harold Street with future redevelopment relieves the lack of an outlet for Millsap east of College and provide a circulator route for businesses and development on the east side of College Avenue.

Major Intersection Redesign

Some major intersections in the 71B study area present chronic problems for all users and warrant special consideration. These include the Archibald Yell/Rock/and College intersection and the North College/Fulbright Expressway interchange. Both were addressed in the Mobility Plan, and refined concepts are provided later in this plan.

Private Connected Circulation Routes

These are drives or parking aisles that either are or can be connected to provide better access between individual properties. They can help reduce the number of curb cuts along the street, again reducing traffic conflicts. When two-way turn lanes are used on parts of College, these curb cuts should line up across from each other wherever possible.

Off-Street Trail Network

The Access Framework and street sections propose continuous sidewalks on both sides of South School and College Avenue, and upgrading the existing sidewalk on at least one side of Archibald Yell. Beyond sidewalks

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by a land swap for the existing Masonic right-of-way, or use of the north drive of the existing shopping center. A new access would be developed from the new Masonic alignment to College Marketplace, and the existing traffic signal at Masonic would be relocated to the south, providing more separation from the Millsap intersection.

- With redevelopment, a circulator link between Township Road and the Sunbridge and College intersection, extending Shiley Drive north of Township. This would provide a bypass for some eastside traffic around the Township intersection.

Private Connected Circulation

- Redesign of Fiesta Square parking lot, envisioning circulation drive along building front as an interior street with continuous pedestrian access.
- Aligned and shared driveway cuts, connecting the proposed eastside and westside collectors and College, effectively creating a web of local access ways around the main line.
- Maximum interconnection of interior drives to form slip lanes and incorporation of large rear service and drive areas into the overall circulation system across property lines.

Regional Shared Use Trail Connections/On-Street Bikeways

- New development and access configuration at Fiesta Square will maintain the connection (now a pilot project) to connect the Razorback Greenway and Old Missouri/Old Wire bicycle facilities. This bridges the gap between the Appleby bike lanes and Rolling Hills protected bike lanes.
- An extended bike route west is available by using the Scull Creek Trail portion of the Greenway to Drake Street.

College Avenue Trail Network

- Shared use path network paralleling College on both sides and to accommodate pedestrians, bikes, e-bikes, scooters, and other low-impact mobility conveyances.
- East side route generally follows the base of the hills and uses surplus space through or adjacent to service areas behind buildings and new routes through potential redevelopment projects.
- West side corridor follows rear property lines and available existing separations between buildings to connect back to College between Township and Rolling Hills. It continues along the Fiesta Square

bikeway connection and then north as a sidepath along the Plainview connection.

Urban Intersection Nodes

- High visibility crosswalks with streetscape elements and refuge medians if possible at signalized intersections. These include Sunbridge, Rolling Hills, Masonic, and Millsap.
- Protected pedestrian crossings with refuge median at or near Golden Eagle and Harold.

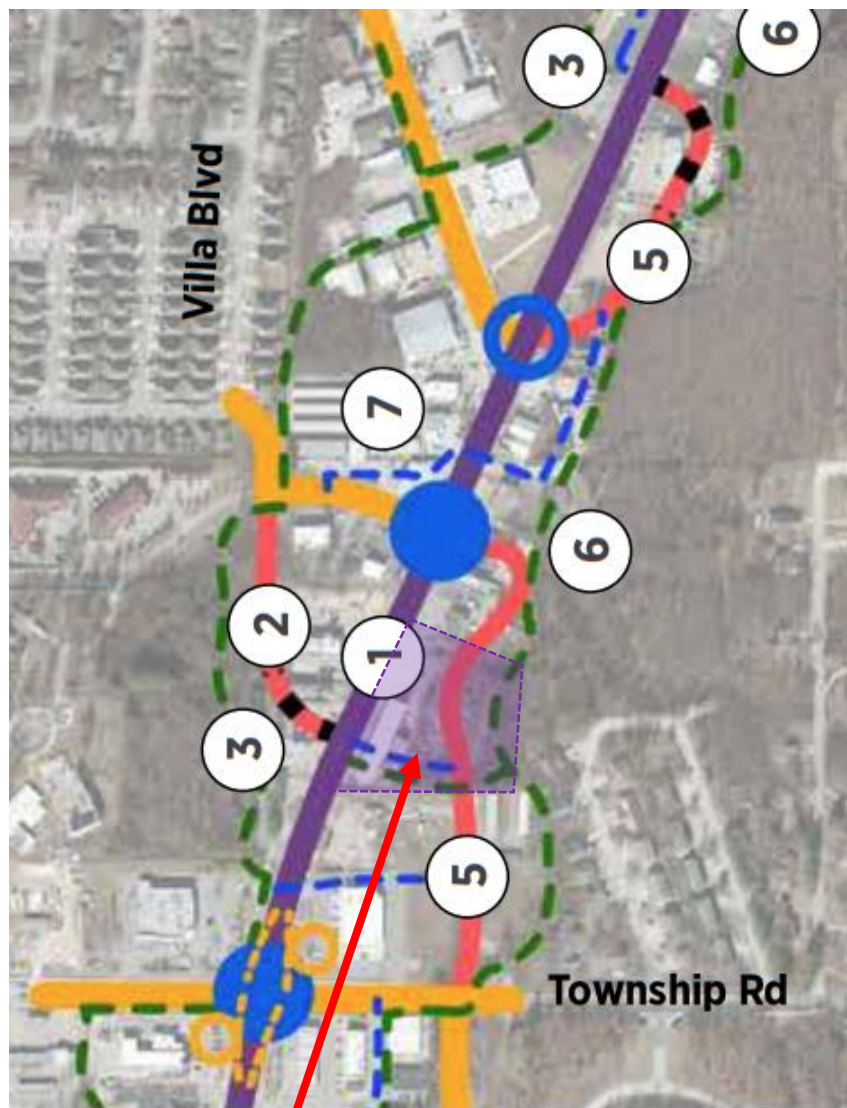
Transit (BRT) Stations

- Potential BRT stop at either Rolling Hills or relocated Masonic, depending on development objectives. Only one stop is needed in this segment, and choice may depend on timing of redevelopment.

Diagram displaying the Appleby/Rolling Hills/
Plainview link at Fiesta Square (highlighted in red)



Figure 13: Excerpts from 71 B Master Plan



APPROXIMATE PROJECT
LOCATION

NORTH TO TOWNSHIP FRAMEWORK COMPONENTS	
1	North College Ave with 4 travel lanes, median with protected left turns or two-way turning lane where necessary, access management, and continuous sidewalks on both sides.
2	Villa Blvd intersection redesign
3	Continuous shared use path on west side of corridor
4	Drake Street right-sizing with bike lane/shoulders
5	Rear collector connection to serve potential redevelopment, linking Township with Sunbridge intersection
6	Continuous shared use path on east side of corridor
7	Aligned shared curb cuts on opposite sides of College
8	Appleby bike lanes with connection to Razorback Greenway
9	Appleby-Plainview connection and roundabout to Rolling Hills with possible Fiesta Square parking redesign and new development
10	Rolling Hills protected bike lanes to Old Missouri/Old Wire path system.

NORTH TO TOWNSHIP FRAMEWORK COMPONENTS	
11	Interior street continuity with redesign of office and retail developments north of Rolling Hills, with connection to future Market-Lee-Hemlock collector
12	Shared front driveways/slip lane with access consolidation
13	Plainview connection to provide continuous local collector on west side to Millsap and eventually to Mall.
14	New Harold Street connection linking Plainview collector and College corridor.
15	Street segment to fill Longview Street gap to west side development areas
16	New Masonic alignment between Whole Foods and Lewis Ford to provide alternative local access to shopping center
17	Relocation of Masonic Street signal to south; existing Whole Foods shopping center access is retained
18	New alignment for Masonic Street on south side of Superior Nissan or north side of shopping center lot. Possible land trade with auto dealership involving existing Masonic Street right-of-way.
19	Connection of Market Avenue and shopping center service drive and/or Sara Lane into a unified route between Rolling Hills and Harold, aligning with Lee Avenue north.
20	Shopping center redevelopment that includes continuation of the east-side collector using a continuation of Lee Avenue and connection to a Hemlock Avenue extension.
21	Extension of Hemlock south of Millsap to Masonic, completing the east side collector south to Rolling Hills.

Shaded rows indicate projects that require redevelopment

Figure 14: Uptown Framework Diagram, Excerpt from 71B Master Plan



Parking within a building footprint. Parking contained at or half a level below grade within the walls of the building support three levels of apartments above with minimal surface parking. (Wauwatosa, WI)



Screening parking with projecting storefronts. This concept on a significant street permits both at-grade parking and street-facing retail. (Iowa City, IA)



Parking bays separated by landscaped corridors. Requiring a landscaped separation between each three contiguous parking bays breaks up large expanses of parking when they occur. (Derby, KS)



intersecting streets included in the city's Master Street Plan should be screened at street level by another building (such as a retail storefront), earthwork with landscaping (such as a landscaped berm), or a facade similar in design to the rest of the building.

- Maintain flexibility to modify parking standards on an individual basis when a project demonstrates that its potential density, special urban design features, or building and site design quality provide benefits that compensate for reduced screening or landscaping.

Objective: Reduce the scale and impact of lots, minimize heat island effects, and provide more effective interior storm water management.
Potential approaches:

- In surface parking lots, provide a landscaped corridor of at least 20 feet for every three contiguous parking bays. A parking bay is defined as one or two strips of perpendicular or diagonal parking and the drive aisle that serves them. The landscaped corridor should include stormwater management techniques such as rain gardens.
- For surface parking lots with a capacity of 50 or more spaces, provide permeable pavement for at least 50% of paved area.
- Divide parking lots with a capacity of 150 or more spaces into parking blocks of not more than 75 stalls, separated by landscaped corridors.
- For parking lots with 100 or more stalls, provide deciduous tree cover that shades a minimum of 25% of the paved area of the lot. Specific crown diameters for acceptable trees will be established in the UDC.

ACCESS MANAGEMENT

Objective: Minimize number of curb and driveway cuts along 71B to reduce conflict points and traffic friction along the corridor and improve connectivity for pedestrians and personal mobility modes. **Potential approaches:**

The design of existing surface parking lots should be modified as follows:

- Replace existing direct access from parking facilities to 71B with access from available intersecting streets whenever possible, provided connections to these streets have full access in both directions.
- When intersecting streets are not available, provide shared,

drive aisles with a residential street character, and trail and greenway corridors to provide positive common ground between residential and commercial uses.

- Creating residential clusters and neighborhoods that connect to surrounding commercial development but have sufficient critical mass and common space to form an interior residential environment.
- Orienting commercial and residential service areas toward each other or locating commercial service areas to avoid impacts on residential neighbors.
- Establishing a gradient scale on projects adjacent to pre-existing single-family residential neighborhoods, stepping residential density or project intensity down from highest along the 71B corridor itself to lowest adjacent to low-density development. An approach to consider might be limiting new residential density to a specific increment (for example 200%) within 100 feet (or a typical lot depth) of pre-existing developed residential blocks.
- Managing the size and visibility of commercial signage, focusing signage toward the main corridor.

The City of Fayetteville's implementation of good planning policies, strong site development design standards for multifamily and non-residential uses, and zoning districts with form-based components have addressed land use transitions along 71B. These districts and standards, paired with the transportation framework and illustrative plans within this study, will help ensure that the evolution of the 71B corridor also benefits surrounding parts of the city.

REGULATORY DIRECTIONS

Many of the regulatory items noted above will ultimately be incorporated into Fayetteville's UDC as design standards or form-based elements within a possible UT or other format. This section presents more detailed approaches, implementing corridor-wide guidelines. It identifies objectives and provide sample language and quantitative factors that can provide a starting point for discussion and negotiation.

PARKING

Objective: Minimize amount and visibility of surface parking from 71B.
Potential approach:

- In new development, surface parking should avoid or minimize a location between the street facade of a building and the 71B corridor. If permitted, surface parking should not cover more than 25% of the area of the streetyard along 71B (the area of a rectangle between the street facing facade and the right-of-way line).

Objective: Minimize the amount and visibility of parking serving multi-story structures. **Potential approaches:**

- Multi-story buildings, typically with residential and office uses on upper levels, should maximize opportunities to locate their parking within the building footprint or a parking structure.
- At least 50% of the exterior of parking along and visible from 71B or

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continuous drive aisles, slip lanes, and other techniques to connect parking lots serving different properties to minimize points of direct access to 71B.

- In order to provide full access, mid-block direct driveway accesses to 71B on opposite sides must be aligned with each other. These accesses may be provided at median cuts with protected left turns or at least 150 feet from intersections on sections with two way turn lanes.

CONTEXT-SPECIFIC BUILDING SCALE

Objective: Establish building scale and form appropriate to different settings along the 71B corridor. **Potential approaches:**

- Establish a maximum, uninterrupted building length of 200 feet along the North College Avenue segment between North Street and the north city limits; 100 feet along the Archibald Yell segment between Rock Street and Martin Luther King Boulevard; and 150 feet along the South School Avenue segment from the MLK Boulevard intersection to Cato Springs Road. Provide flexibility to waive or expand these maximums for comprehensively planned projects on large sites in excess of five acres. These projects should demonstrate features that reduce the impact of larger buildings and increase their facade variety and quality.
- Establish a typical maximum height of four stories over grade level along South School Avenue between Cato Springs Road and MLK Boulevard and along North College Avenue from North Street to the north city limits. Establish a three-level maximum for any development along Archibald Yell between MLK Boulevard and Rock Street.
- Reduce the typical maximum height by one story for any building within 150 feet of any RSF or NC District. However, no reduction under this guideline should establish a maximum height less than three stories above grade level for any building.
- Increase scale and height levels at strategic locations including the Fiesta Square area, the Northwest Arkansas Mall site, potential development areas opened up as part of a modification of the Fulbright Expressway interchange, the former Co-op site, and key intersection nodes. Potential maximum building heights should be consistent with those of the UT District, with the exception of up to ten stories on any sites that would be made available by modifications of



Step-back building concept at Urban Place nodes. The possible regulation permits a two (rather than three)-story minimum height at the building line, provided that the project includes a higher building consistent with UT requirements, behind.

the Fulbright Expressway intersection. Node locations are identified in the subdistrict recommendations shown in the following section.

PLACEMAKING AT URBAN NODES

Objective: Define Urban Place Intersections at key locations, where higher densities are established for new projects and a context-specific street definition is required. **Potential approaches:**

- Define key urban place intersections along the 71B corridor. Candidate urban places include intersections of 71B with 15th Street, MLK, Sycamore, Township, Rolling Hills, and Millsap.
- For new development at urban places, establish a build-to zone that defines the corner while providing room for amenities, including a corner place and transit accommodations. A reasonable build-to zone would include a maximum setback of 25 feet from the curb line of 71B and intersecting major streets.
- For new urban place intersections, require a three-story minimum height and up to a maximum as provided by the UT Urban Thoroughfare district. A step-back building is permitted with a two-story component on the build-to line, stepping up to a higher building block behind (see accompanying illustration).



- New development should provide space for an urban corner amenity, incorporating landscaping, street furniture, special lighting, or other features. Site design at potential BRT station stops should provide adequate space to accommodate pedestrian circulation, a transit station or shelter, and related amenities.

ACTIVE TRANSPORTATION CONNECTIVITY/ORIENTATION

Objective: Provide connectivity and utility for pedestrian, bicycle, and personal mobility devices. **Potential approaches:**

- Site plans for new development projects should provide access and easements as required for shared use paths and roadways, generally as provided in Transportation Framework. Flexibility in routing through a site should be permitted, provided that overall performance standards for directness, safety, and experience are met.
- Developments with frontage along 71B should provide front facades with direct, safe, and secure pedestrian connections from the public sidewalk to the building entrances.
- Buildings adjacent to a shared-use path identified in this plan should provide a finished facade to the path and a direct, safe, and secure connection from the path to the adjacent building.
- New developments should include construction of a six-foot sidewalk segment along 71B, consistent with city standards and overall street design concepts.

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Figure 15: Excerpts from 71B Master Plan

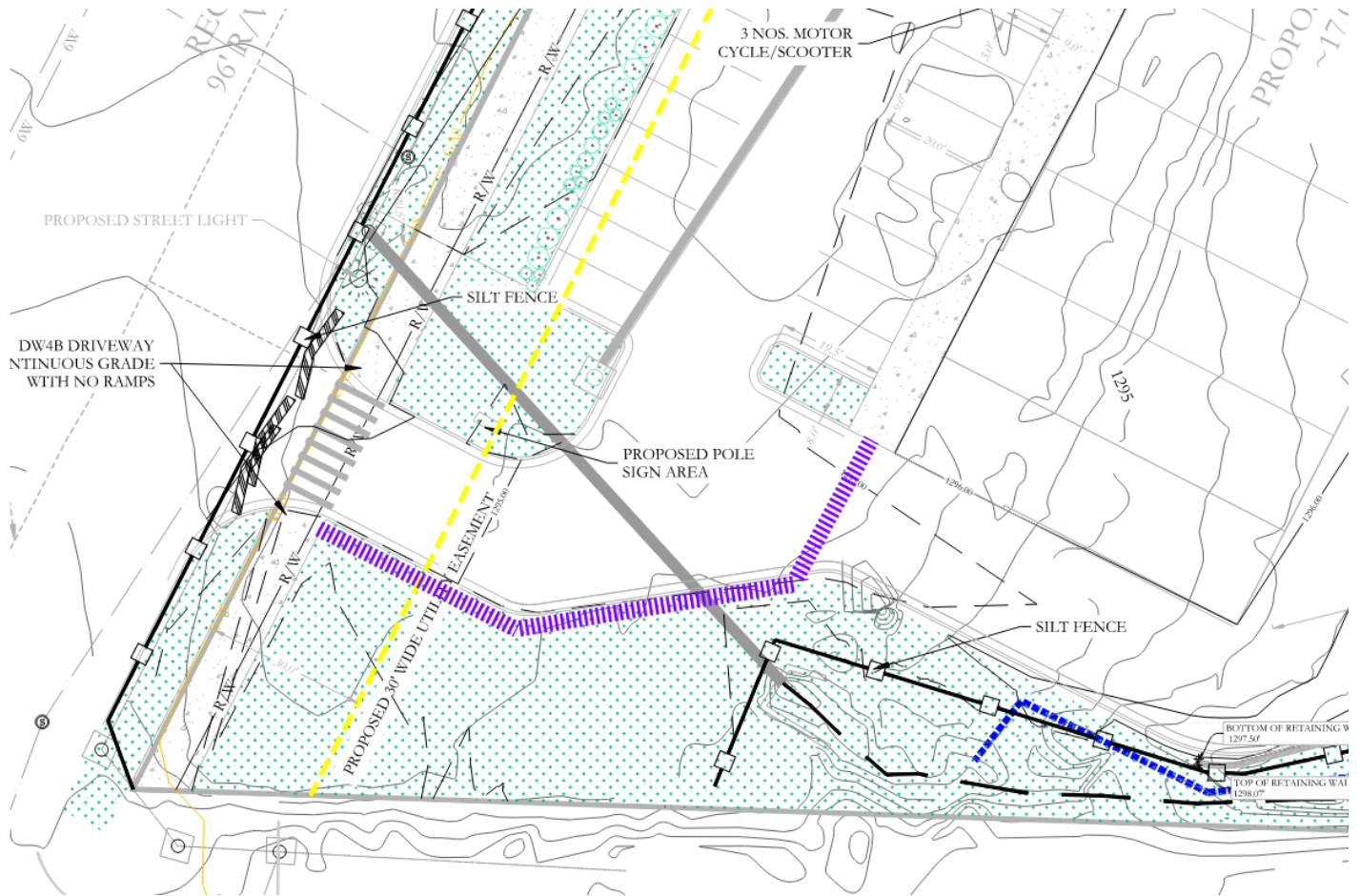
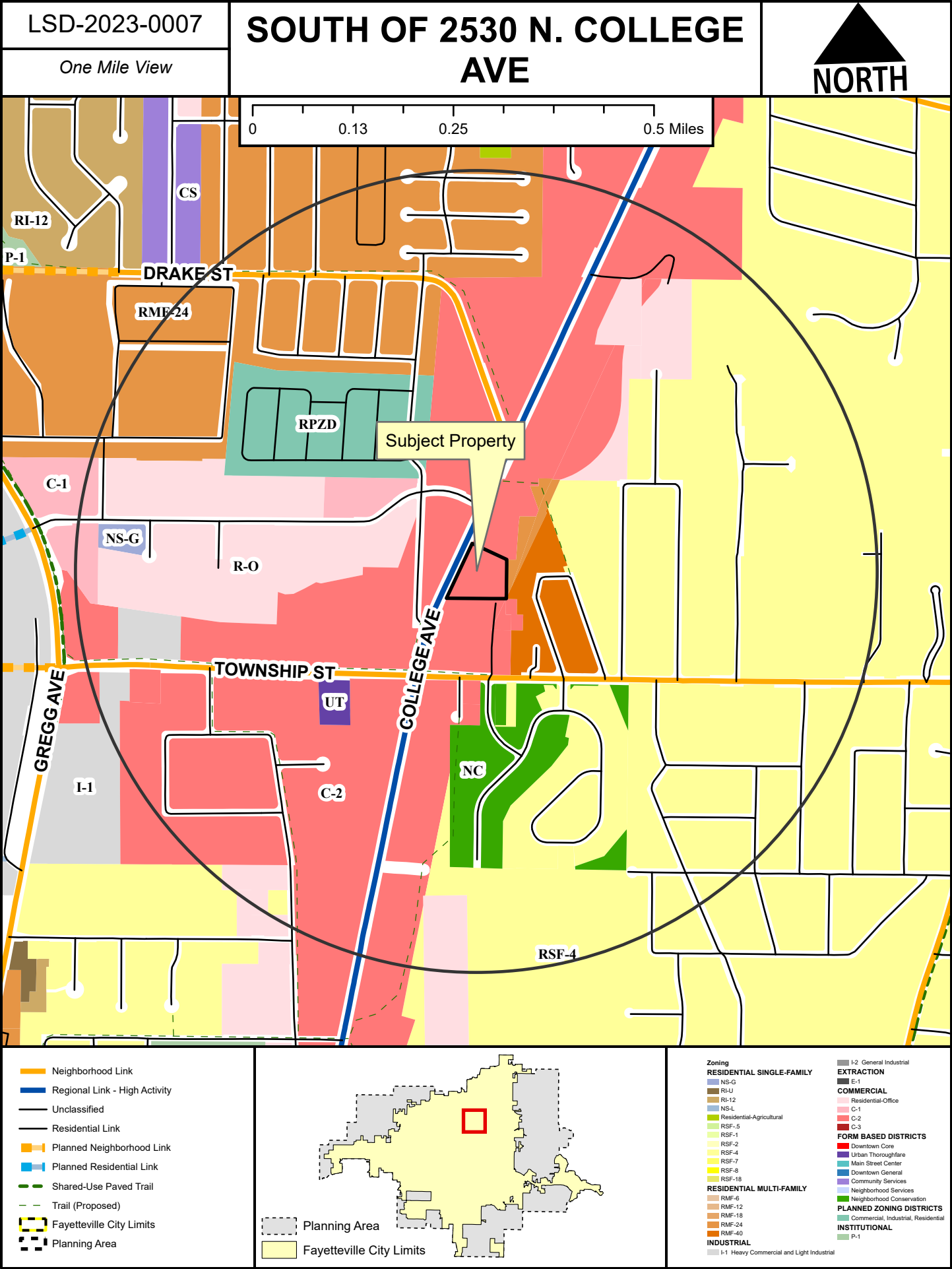
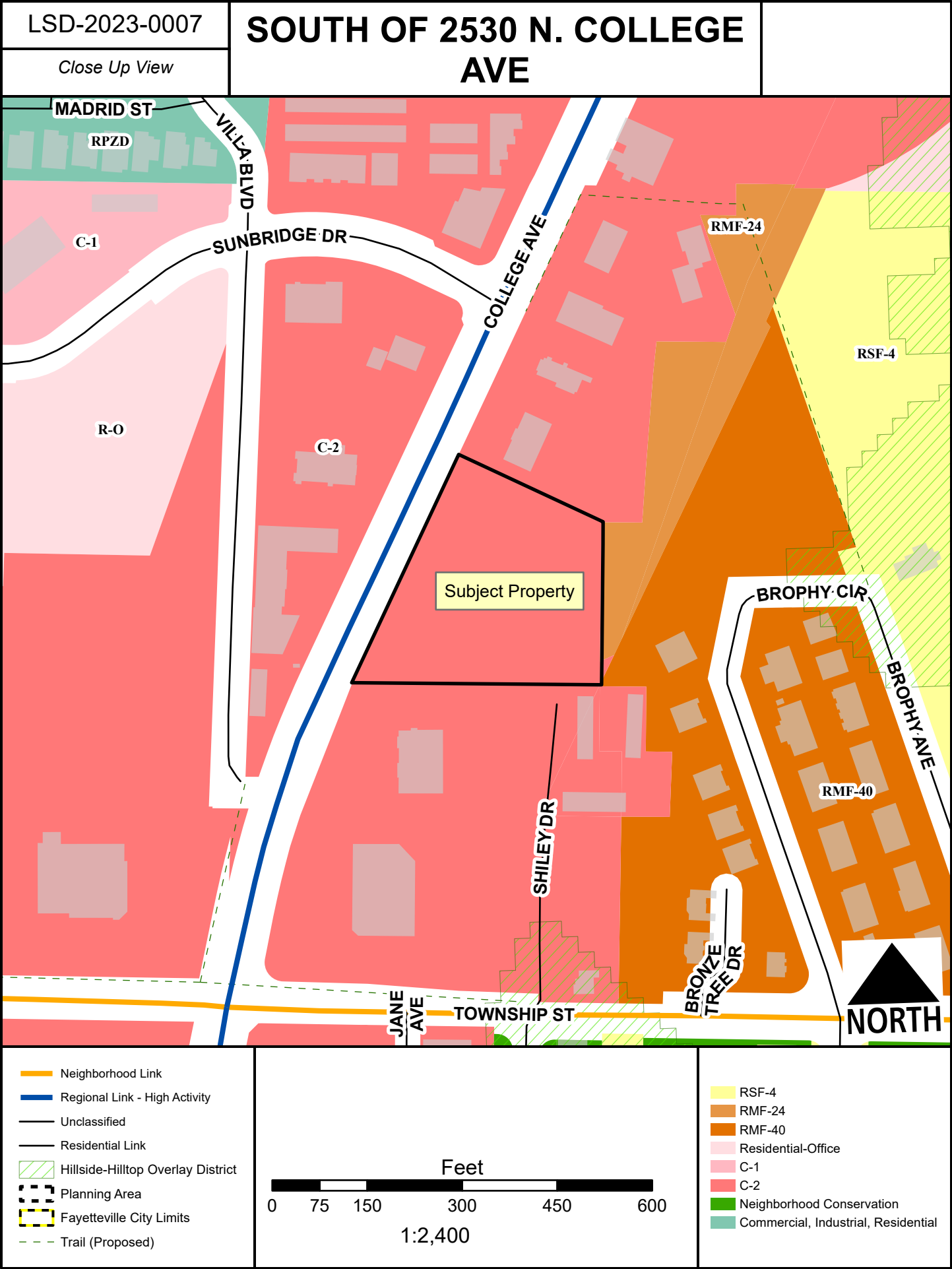


Figure 16: Staff Recommended Condition Exhibit









TO: Fayetteville Planning Commission

FROM: Jessie Masters, Development Review Manager

MEETING DATE: August 14, 2023

SUBJECT: **CUP-2023-0081: Conditional Use Permit (603 N. LEVERETT AVE/SAINT THOMAS AQUINAS, 444):** Submitted by CRAFTON TULL & ASSOCIATES for property located at 603 N. LEVERETT AVE. The property is zoned RMF-40, RESIDENTIAL MULTI-FAMILY, FORTY UNITS PER ACRE and contains approximately 1.05 acres. The request is to operate a church and associated parking in the RMF-40 zoning district.

RECOMMENDATION:

Staff recommends approval of **CUP-2023-0081** with conditions as outlined by staff.

RECOMMENDED MOTION:

*"I move to approve **CUP-2023-0081**, finding:*

- *In favor of compatibility with adjacent properties, and*
- *In favor of all other conditions as recommended by staff."*

BACKGROUND:

The subject property is in central Fayetteville at the northwest corner of N. Leverett Avenue and W. Douglas Street, immediately north of the University of Arkansas. The property currently consists of four parcels and is the site of the St. Thomas Aquinas Catholic Church. According to available aerial imagery, the church appears to have been originally constructed in the mid-1960s. There are no zoning overlay districts that govern the property, which is currently zoned RMF-40, Residential Multi-Family, 40 Units per Acre. Surrounding land uses and zoning are provided in *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Multi-Family Residential	RMF-40, Residential Multi-Family, 40 Units per Acre
South	Multi-Family Residential/Parking	RMF-40, Residential Multi-Family, 40 Units per Acre
East	Chi Omega Ministries	RMF-40, Residential Multi-Family, 40 Units per Acre
West	Child Development Center	RMF-40, Residential Multi-Family, 40 Units per Acre

City Plan 2040 Future Land Use Designation: City Neighborhood Area

Request: The applicant requests a conditional use permit to construct a 13,000 sq. foot church with an off-site parking lot. The church is classified as Use Unit 4, and off-site parking requires a conditional use permit under 172.06(B)(2). The following parameters are under evaluation with this request:

- Business size: Approximately 13,000 sq. ft.
- Hours of operation: Tuesday – Friday, 9 AM – 6 PM; Sunday 9 AM – 8 PM
- Number of Employees: 8

- Parking spaces: 40 off-site parking spaces

Public Comment: Staff has not received any public comment regarding the proposed request.

RECOMMENDATION: Staff recommend approval of **CUP-2023-0081**. Should the Planning Commission choose to approve the permit, staff recommends the following conditions:

Conditions of Approval:

1. **Planning Commission determination of compatibility.** *Staff finds the proposed church and associated off-site parking to be compatible with the surrounding neighborhood and the City's long-range plans for the area;*
2. **This conditional use permit is limited to the use for St. Thomas Aquinas Catholic Church, as described in the applicant's request letter. The following specifications apply:**
 - a. Business size: Approximately 13,000 sq. ft.
 - b. Hours of operation: Tuesday – Friday, 9 AM – 6 PM; Sunday 9 AM – 8 PM
 - c. Number of Employees: 8
 - d. Parking spaces: Approximately 40 off-site parking spaces
3. **Religious institutions are not subject to 166.25, Commercial, Office, Mixed-use, Design and Development standards;**
4. **Under UDC §166.20, conditional use permit approval expires after 1 calendar year;**
5. **Approval of this conditional use permit does not ensure approval of a development application. The conditional use permit grants the applicant rights to submit a development proposal based on the conceptual layout included herein. The applicant shall comply with all other development requirements, including but not limited to, tree preservation, drainage, exterior lighting, utility installation, and Fire Department access standards. These details shall be reviewed with the development application;**
6. **Any future expansion or change in the use shall require Planning Commission approval; and**
7. **Signs shall be limited to those permitted by UDC §174. Any proposed signage shall be reviewed for compliance with the underlying zoning district; religious institutions are exempt from applying for a permit for signage.**

PLANNING COMMISSION ACTION:				Required	<u>YES</u>
Date: <u>August 14, 2023</u>	☐ Tabled	☐ Approved	☐ Denied		
Motion:					
Second:					
Vote:					

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

1. Hear and decide only such special exemptions as it is specifically authorized to pass on by the terms of this chapter.
2. Decide such questions as are involved in determining whether a conditional use should be granted; and,
3. Grant a conditional use with such conditions and safeguards as are appropriate under this chapter; or
4. Deny a conditional use when not in harmony with the purpose and intent of this chapter.

C. A conditional use shall not be granted by the Planning Commission unless and until:

1. A written application for a conditional use is submitted indicating the section of this chapter under which the conditional use is sought and stating the grounds on which it is requested.

Finding: The applicant has submitted a written application requesting a conditional use permit for Use Unit 4 in the RMF-40 zoning district, as well as for off-site parking under the requirements outlined in 172.06.

2. The applicant shall pay a filing fee as required under Chapter 159 to cover the cost of expenses incurred in connection with processing such application.

Finding: The applicant has paid the required filing fee.

3. The Planning Commission shall make the following written findings before a conditional use shall be issued:

(a.) That it is empowered under the section of this chapter described in the application to grant the conditional use; and

Finding: The Planning Commission is empowered under Unified Development Code §161.17 and §172.06 to grant the requested conditional use permit.

(b.) That the granting of the conditional use will not adversely affect the public interest.

Finding: Staff finds that granting the requested conditional use is unlikely to adversely affect the public interest. The property has been occupied by a church of approximately this size and scale since the mid-1960s. Churches are considered a conditional use in this primarily residential zoning district

due to the traffic-generating nature. In an evaluation of the surrounding land uses, scale, and context, staff finds that surrounding residents are unlikely to experience disruption or nuisance. To the west is a childcare facility that is open during typical working hours, to the east is another institutional use, and to the north and south are multi-family structures. The future land use map also identifies this area as a City Neighborhood Area, which calls for a mix of residential and non-residential uses, with those non-residential uses on corners and along connecting corridors. The location of this church meets those criteria.

(c.) The Planning Commission shall certify:

(1.) Compliance with the specific rules governing individual conditional uses; and

Finding: There are no specific rules that govern Use Unit 4, largely. However, code requires that the Planning Commission make a finding based upon the size, scale, and location of a proposed off-site parking lot that it will not adversely affect adjacent residential uses or the residential character of the neighborhood. Staff finds that size, scale, and location of the parking lot are not likely to negatively affect surrounding property owners and residents; there are currently existing trees that act as screening, and a sidewalk along Douglas Avenue already exists to allow for pedestrian access around the parking lot. While the sidewalk currently does not meet master street plan standards, staff finds that a full evaluation of sidewalk requirements would be made at the time of a building permit application. Further, while the City of Fayetteville does not have parking minimums, the City does enforce parking maximums. Based on the applicant's proposal, which indicates 454 seats, the use could be permitted up to 114 parking spaces by-right. The existing parking lot has 40 parking spaces, and no alterations to that parking lot are currently planned. Staff finds the existing parking lot meets the requirement of size, scale, and location.

(2.) That satisfactory provisions and arrangements have been made concerning the following, where applicable:

(a.) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe;

Finding: Per the submitted site plan, there does not appear to be direct vehicular access to the church structure itself, though access could be provided through a public alley that currently separates the existing church and parking lot. Vehicular access to the offsite parking lot appears to be provided at four points; two driveways along N. Storer Avenue, and two driveways to the existing alleyway. The driveways along N. Storer Avenue appear to be non-conforming; N. Storer Avenue is a Neighborhood Link street, which typically requires 100 feet of curb separation for non-residential uses. The southernmost driveway appears to be approximately 14 feet to the north of the intersection with W. Douglas Avenue, and the second driveway appears

to be approximately 36 feet to the north. The parking lot is immediately adjacent to a childcare facility, and directly north of the University, where pedestrian traffic is common; closing one or both driveways along N. Storer Avenue and providing access solely through the existing alley may provide fewer points of conflict and ensure automotive and pedestrian safety in this area. That said, only 4 accidents were reported between 2017 and 2021 at the intersection of N. Storer Avenue and W. Douglas Street. Staff does not find that bringing the access of the existing parking lot into compliance would be needed at this time, since the applicant does not intend to modify or alter that portion of the project's boundary at this time, and is likely not contributing to an unsafe traffic condition as is.

- (b.) Off-street parking and loading areas where required, with particular attention to ingress and egress, economic, noise, glare, or odor effects of the special exception on adjoining properties and properties generally in the district;

Finding: Forty existing off-street parking spaces are proposed with this development in the adjacent parking lot. There is existing tree canopy along the northern property line of the proposed parking lot, which is adjacent to multi-family residential. Provided those trees stay in place, staff does not recommend any additional screening. Chapter 172.04 prohibits off-site parking lots from being located within a build-to-zone. Staff finds that the parking lot is an existing non-conforming parking lot, and since no modifications are intended for it currently, then bringing it into compliance with this ordinance is not necessary. If modifications were made to the parking lot, or a modification of any access features proposed, ordinance would require that the parking lot be brought into full compliance with code.

- (c.) Refuse and service areas, with particular reference to ingress and egress, and off-street parking and loading,

Finding: Trash will be provided with residential trash carts. Staff recommends that these stay screened and out of view of the public right-of-way when not in use.

- (d.) Utilities, with reference to locations, availability, and compatibility;

Finding: The property has access to City water and sewer. Any required extensions will be provided at the time of permitting.

- (e.) Screening and buffering with reference to type, dimensions, and character;

Finding: Staff does not recommend any additional screening at this time.

- (f.) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect,

and compatibility and harmony with properties in the district;

Finding: Any proposed signage will be subject to UDC §174 and all the regulations therein.

(g.) Required yards and other open space; and

Finding: Full evaluation of setback requirements will be made at the time of grading and building permit, but staff finds that the proposal is substantially compliant with setbacks. RMF-40 has a build-to-zone and the structure is generally oriented towards the street corner.

(h.) General compatibility with adjacent properties and other property in the district.

Finding: Staff finds that the proposed church is compatible with the surroundings; a church of similar size and scale has existed on the site since the mid-1960s with no apparent nuisance or adverse impacts to the surroundings, and may in fact be positively contributing to a City Neighborhood environment by activating the neighborhood at an altering time from other uses in the area.

(i.) General compatibility with the goals and intent of the city's adopted land-use, transportation, and other strategic plans.

Finding: Staff finds the proposed use to be compatible with the goals and intent of the City's adopted land use, transportation, and other strategic plans, particularly given the property's location on a corner. This helps contribute to City Plan 2040 goal number 3, which make compact, complete, and connected development the standard.

BUDGET/STAFF IMPACT:

None

Attachments:

- Unified Development Code
 - §161.17 District RMF-40, Residential Multi-Family - Forty (40) Units Per Acre
 - §172.06 Parking Lot Location Standards
- Urban Forestry memo
- Fire Marshal memo
- Applicant Request Letter
- Site Plan
- Building Elevations
- Floor Plans
- One Mile Map
- Close-Up Map
- Current Land Use Map

161.17 District RMF-40, Residential Multi-Family - Forty (40) Units Per Acre

(A) *Purpose.* The RMF-40 Multi-family Residential District is designated to protect existing high density multi-family development and to encourage additional development of this type where it is desirable.

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three (3) and four (4) family dwellings
Unit 26	Multi-family dwellings
Unit 41	Accessory dwellings
Unit 44	Cluster Housing Development
Unit 46	Short-term rentals

(2) *Conditional Uses.*

Unit 2	City-wide uses by CUP
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 11	Manufactured home park
Unit 12a	Limited business
Unit 24	Home occupation
Unit 25	Professional offices
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	Forty (40) or less
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(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

Manufactured home park	100 feet
Lot within a Manufactured home park	50 feet
Single-family	30 feet
Two (2) family	30 feet
Three or more	70 feet
Professional offices	100 feet

(2) *Lot Area Minimum.*

Manufactured home park	3 acres
Lot within a mobile home park	4,200 square feet
Townhouses: Individual lot	2,000 square feet
Single-family	2,500 square feet
Two (2) family	3,000 square feet
Three (3) or more	7,000 square feet
Fraternity or Sorority	1 acre

(3) *Land Area Per Dwelling Unit.*

Manufactured Home	3,000 square feet
Fraternity of Sorority	500 square feet per resident

(E) *Setback Requirements.*

Front	Side Other Uses	Side Single & Two (2) Family	Rear Other Uses	Rear Single Family
A build-to zone that is located between the front property line and a line 25 feet from the front property line.	8 feet	5 feet	20 feet	5 feet

(F) *Building Height Regulations.*

Building Height Maximum	2 stories/3 stories/5 stories*
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* A building or a portion of a building that is located between 0 and 10 feet from the front property line or any master street plan right-of-way line shall have a maximum height of two (2) stories, between 10—20 feet from the master street plan right-of-way a maximum height of three (3) stories and buildings or portions of the building set back greater than 20 feet from the master street plan right-of-way shall have a maximum height of 5 stories.

If a building exceeds the height of two (2) stories, the portion of the building that exceeds two (2) stories shall have an additional setback from any side boundary line of an adjacent single family district. The amount of additional setback for the portion of the building over two (2) stories shall be equal to the difference between the total height of that portion of the building, and two (2) stories.

(G) *Building Area.* The area occupied by all buildings shall not exceed 50% of the total lot area. Accessory ground mounted solar energy systems shall not be considered buildings.

(H) *Minimum Buildable Street Frontage.* 50% of the lot width.

(Code 1965, App. A., Art. 5(IV); Ord. No. 2320, 4-5-77; Ord. No. 2700, 2-2-81; Ord. No. 1747, 6-29-70; Code 1991, §160.034; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. No. 5028, 6-19-07; Ord. No. 5224, 3-3-09; Ord. No. 5262, 8-4-09; Ord. No. 5312, 4-20-10; Ord. No. 5462, 12-6-11; Ord. No. 5592, 6-18-13; Ord. No. 5664, 2-18-14; Ord. No. 5800, §1(Exh. A), 10-6-15; Ord. No. 5921, §1, 11-1-16; Ord. No. 5945, §§5, 8, 9, 1-17-17; Ord. No. 6015, §1(Exh. A), 11-21-17; Ord. No. 6245, §2, 10-15-19; Ord. No. 6427, §§1(Exh. C), 2, 4-20-21)

Editor's note(s)—Ord. No. 6625, §1 adopted December 6, 2022, "determines that Section 2 of Ordinance 6427 (Sunset Clause) be amended so that Ordinance 6427 and all amendments to Code Sections ordained or enacted by Ordinance 6427 shall automatically sunset, be repealed and become void on December 31, 2023, unless prior to that date the City Council amends this ordinance to repeal or further amend this sunset, repeal and termination section."

172.06 Parking Lot Location Standards

The location of all required and nonrequired parking lots with five (5) or more spaces shall meet the location requirements below. All conditional uses hereunder shall be granted by the Planning Commission in accordance with Chapter 163, governing applications of conditional uses; procedures.

(A) *Permitted Locations by Right.* Parking lots shall be located within the same zoning district as the use they serve. Required parking lots for uses allowed by right within a zoning district are allowed as a use by right in the same zoning district.

(B) *Permitted Locations as a Conditional Use.*

- (1) Parking lots located within residential zones which serve uses in nonresidential zones may be allowed as a conditional use by the Planning Commission.
- (2) Parking lots for uses allowed as conditional uses within residential zones must also be approved as a conditional use. A conditional use for a parking lot may be approved at the same time the use is approved or may be approved separately if additional parking lots are developed later.

The Planning Commission shall make a finding based upon the size, scale, and location of these activities that the proposed parking lot will not adversely affect adjacent residential uses or the residential character of the neighborhood.

- (C) *Off-Site Locations.* If off-street parking cannot be provided on the same lot as the principal use due to existing buildings or the shape of the parcel, parking lots may be located on other property not more than 600 feet distant from the principal use, subject to conditional use approval by the Planning Commission.
- (D) *Intermittent Parking.* Uses which generate only intermittent demand for parking, such as churches, may count available on-street parking within 600 feet of the building as part of required parking, subject to the approval of the Planning Commission.

172.04 Parking Lot Design Standards

(See: Illustration: Parking Dimension Factors)

- (A) *Maneuvering.* Parking lots shall be designated, maintained, and regulated so that no parking or maneuvering incidental to parking will encroach into the areas designated for sidewalks, streets, or required landscaping. Parking lots shall be designed so that parking and un-parking can occur without moving other vehicles, unless a valet service has been approved as part of the development plans. Vehicles shall exit the parking lot in a forward motion.
- (B) *Pedestrian Access.*
 - (1) Pedestrian access shall be provided from the street to the entrance of the structure by way of designated pathway or sidewalk.
 - (2) Parking lots may be utilized by restaurants, cafes, and similar uses where pedestrian seating, access, or service does not interfere with safe and functional circulation. If a parking lot utilized for outdoor service is determined to represent a hazard to pedestrian or vehicular use, sites may be required to include an implied or physical barrier with landscaping elements, gated fencing, changes in ground surface texture, material or color, or similar treatments.
- (C) *Build-to Zone.* A portion of a required parking lot may be located within the build-to zone, subject to the following:
 - (1) A parking lot located within the build-to zone shall be screened with a masonry screen wall between 32 inches and 42 inches in height and 50% opaque minimum.
 - (2) Parking lots that are located within the build-to zone shall comply with Chapter 177: Landscape Regulations, related to landscape setbacks.
 - (3) Off-site parking lots shall be prohibited from being located within the build-to zone.
 - (4) In urban zoning districts that specify urban form (i.e., a build-to zone) the intent is for drive-thru lanes, parking lot drive aisles, and parking spaces to be located to the side or rear of buildings. In urban zoning districts, a drive-thru lane, parking lot drive aisle, or parking spaces are not permitted to be located in the front yard directly between a building and the Master Street Plan right-of-way.

...

(Ord. No. 4725, 7-19-05; Ord. No. 4855, 4-18-06; Ord. No. 4917, 9-05-06; Ord. No. 5044, 8-07-07; Ord. No. 5079, 11-20-07; Ord. No. 5297, 12-15-09; Ord. No. 5592, 06-18-13; Ord. No. 5680, 4-15-14; Ord. No. 5841, §§1—3, 1-15-16; Ord. No. 5859, §2, 3-15-16; Ord. No. 6325, §1, 6-16-20; Ord. No. 6350, §9(Exh. G), 8-18-20)



Planning Commission Memo

TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Melissa Evans, Urban Forester

MEETING DATE: August 14, 2023

SUBJECT: **CUP-2023-0081 Conditional Use Permit (St. Thomas Aquinas, 603 N. Leverett Ave.):** Submitted by Crafton Tull for property located at 603 N. Leverett Ave. The property is zoned RMF-40, MULTI-FAMILY RESIDENTIAL, and contains approximately 1.05 acres. The request is for a Conditional Use Permit.

RECOMMENDATION:

Urban Forestry Staff recommends approval of CUP-2023-0081. It is recommended that the applicant preserve the large, significant, existing deciduous tree along N. Leverett Avenue (unless a report by a Certified Arborist deems it to be hazardous or in poor condition, though it currently appears to be in good condition) as shown on the current site plan.

Urban Forestry also recommends that the trees along the north side of the existing parking lot be preserved, especially if the trunks are located on the adjacent property owner's lot, when they submit their plans for approval per Chapter 167.01(B)(1) and 167.04(C).

The minimum tree preservation requirement for RMF-40 zoning is 20%. Per Code, preservation is the first, best and standard approach to decisions regarding existing trees on a site to be developed. Preservation is achieved by no impact (or as minimal as possible) to the root zone of the tree. The root zone area can be roughly determined by projecting the outermost canopy edges down to the ground.

BACKGROUND:

Preserving trees along the northern property line of the existing parking lot portion of this site will help buffer the property from the residential house to the north and keep any trees that are on the neighbor's property intact if they leave at least a 10' wide buffer from the tree trunks to any construction. The large existing tree along N. Leverett Ave. has been in place since 1965 per aerial imagery and is a significant tree, which is high priority for preservation per Chapter 167 of the UDC.



To: Jesse Masters, Planner
CC: Battalion Chief Jeremy Ashley, Fire Marshal
From: Captain Clint Price, Deputy Fire Marshal
Date: 7/13/2023

Subject: CUP-2023-0081

After looking at the plans for the above project, these are some fire codes that will need to be addressed moving forward. We operate out of the 2021 AFPC fire code. This was not a full review.

Section D105

Aerial fire apparatus access roads

Code: D105.1-D105.4

Automatic sprinkler systems

903.2.1.3

Automatic fire alarms

907.2.1

Fire protection water supplies/ hydrant locations

Section 507



July 26, 2023

City of Fayetteville
Attn: Planning Department
113 West Mountain St
Fayetteville, AR 72701

Re: Conditional Use Permit
Saint Thomas Aquinas
CT Job #: 21301200

Planning Staff,

On behalf of my client, Roman Catholic Diocese of Little Rock, we are submitting the above referenced conditional use permit for your consideration.

The project is located at 603 N Leverett Ave in Fayetteville. Currently a 13,725 sqft church is on the 1.051-acre tract. The property is currently zoned RMF-40. We are seeking the approval to construct a new 13,000 sqft church. Use 4, Cultural and Recreational Facilities, is an allowed conditional use under the current zoning.

City of Fayetteville water and sanitary sewer and franchise utilities are currently available on site. They will be extended if needed.

The new church will have similar configuration and operations as the current church. The hours of operations and number of employees will remain the same. Open Tuesday through Friday from 9 am to 6 pm and Sundays from 9 am to 8 pm. The Church maintains a staff of 8. The number of parishioners is anticipated to be 460. Site lighting will comply with chapter 176 of the Unified Development Code.. No issues with noise are to be expected. Most activities are to remain inside the building. Outdoor seating is proposed but again no anticipated issues with outdoor seating. The church will have perimeter landscaping and retaining walls. Trash service (provided by the city) will remain the same. Trash cans pulled to the street once a week. No traffic impacts are to be expected. The current parking is to remain the same. There are currently two parallel spots provided along Leverett and an offsite parking lot west of the church that provides forty parking spaces. The offsite parking lot west of the building is on its own parcel (parcel number 765-07527-000). Patrons of the church currently cut through the parking lot to the nearest public sidewalk. From there, to the church.

A site plan, color elevations and preliminary floor plans have been provided with this submittal. We appreciate your consideration in this matter.

Respectfully,

Caroline Gardner, PE
Project Engineer

ST. THOMAS
AQUINAS
UNIVERSITY
PARISH

603 N Levee Ave., Fayetteville, AR 72701

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OWNER
Diocese of Little Rock
2500 N Tyler Street
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NOT FOR
CONSTRUCTION

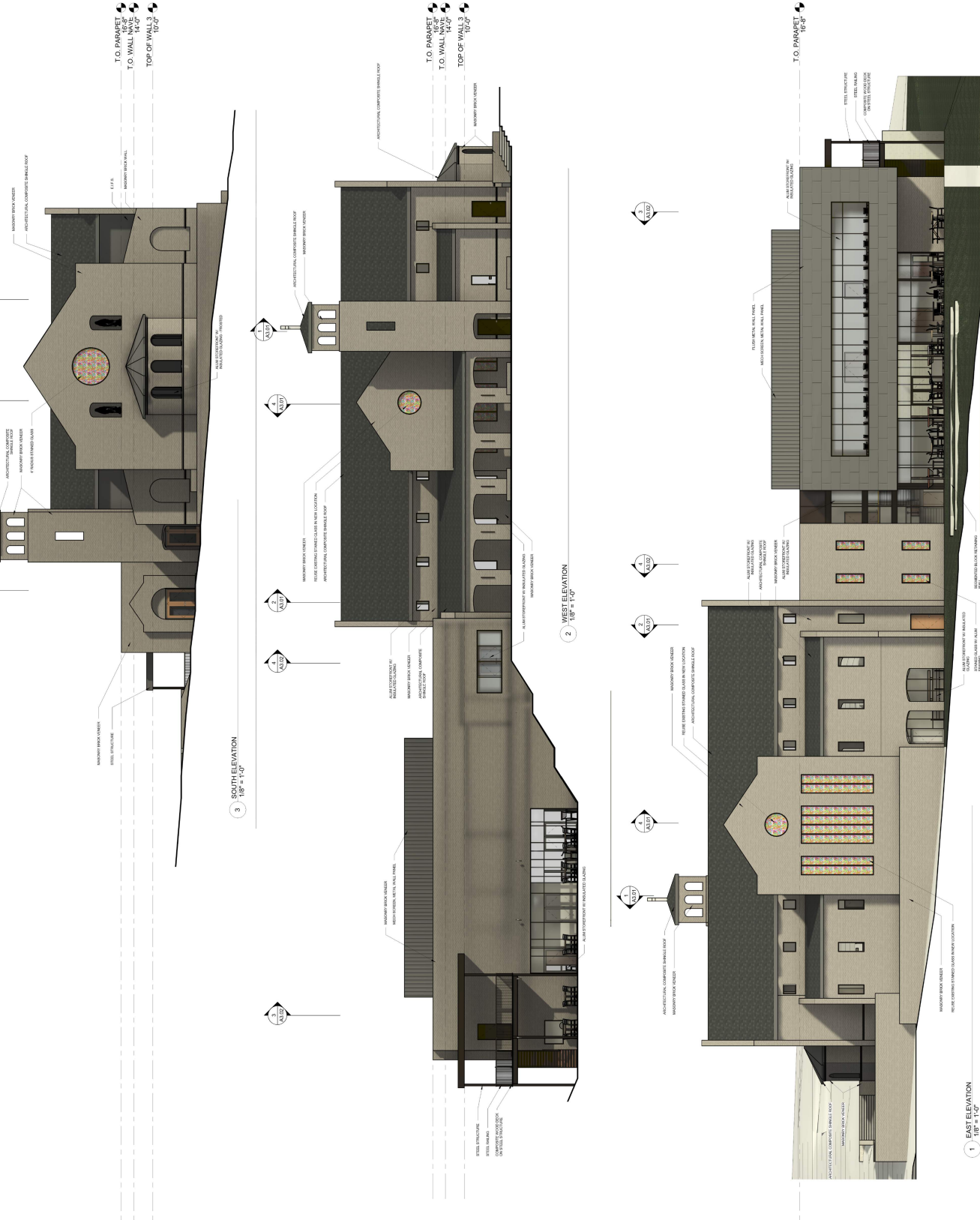
SCHEMATIC DESIGN

No.	Name	Date
1	SEASIDE ELEVATION #1	05/20/2023
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		

Job No. STTHOM21.01
Date 06/30/2023
Title

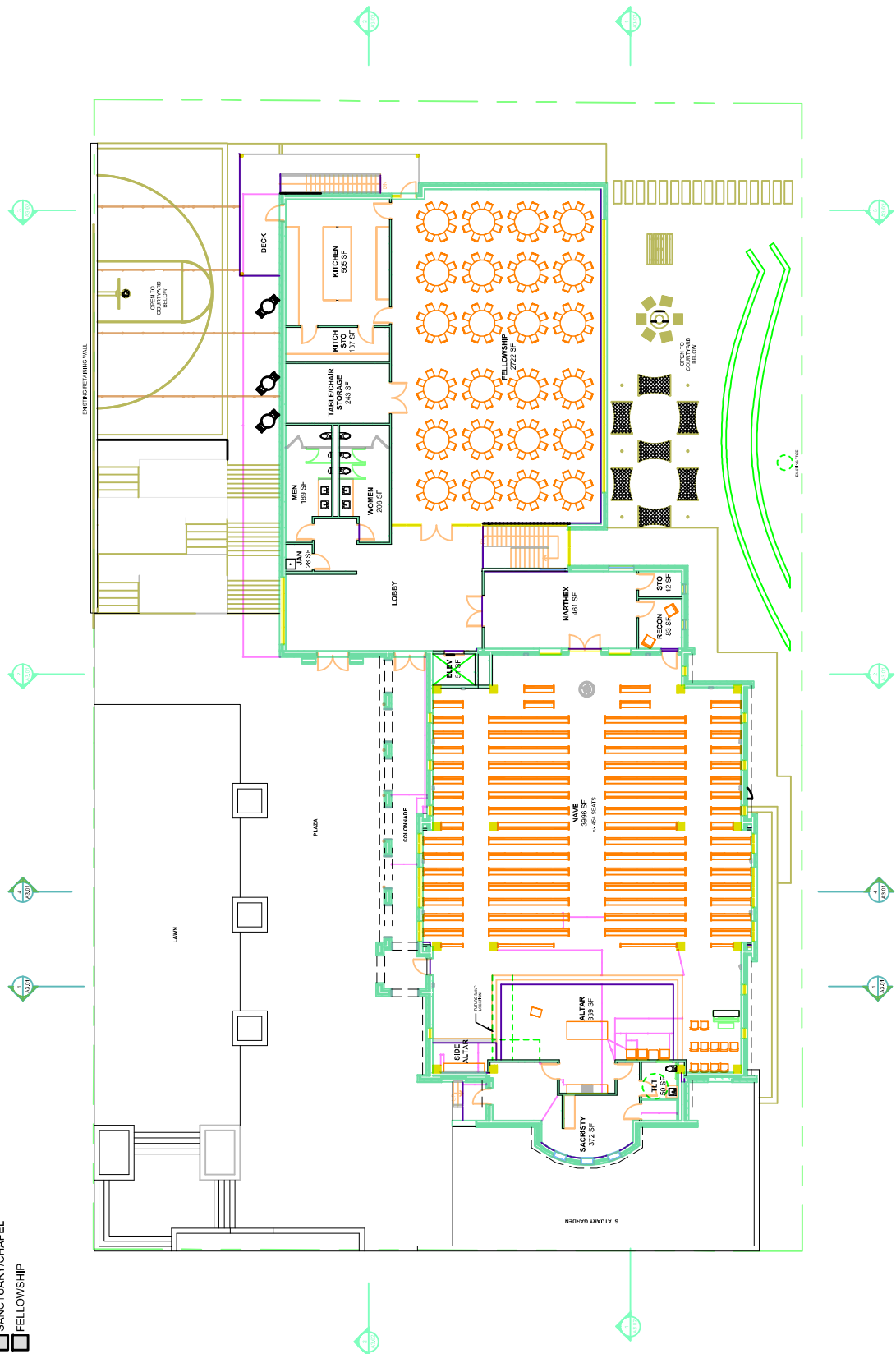
Sheet No. ELEVATIONS

A2.01

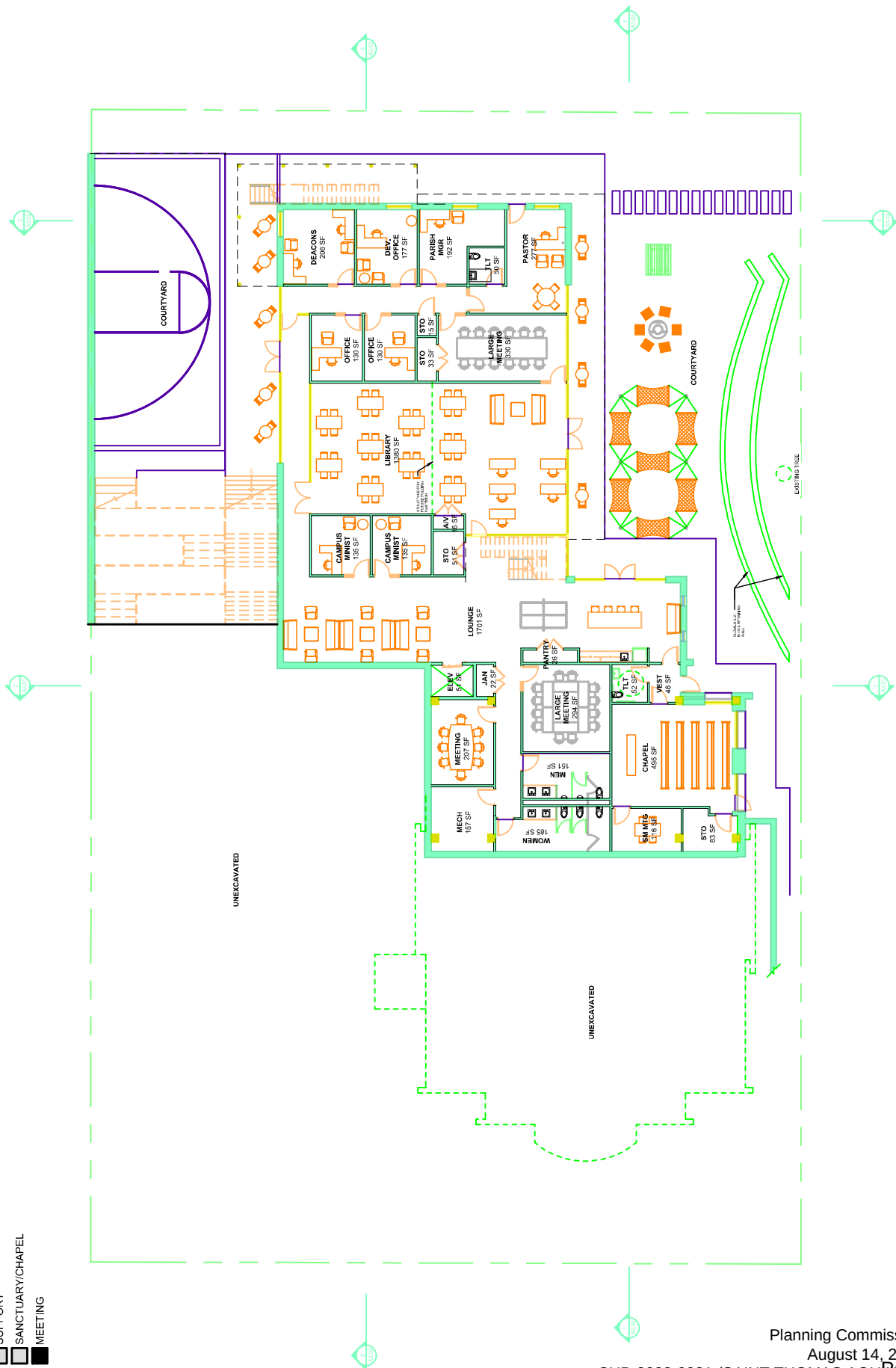


PROGRAM

☒	CIRCULATION
☐	SUPPORT
☐	SANCTUARY/CHAPEL
☐	FELLOWSHIP



LOWER LEVEL

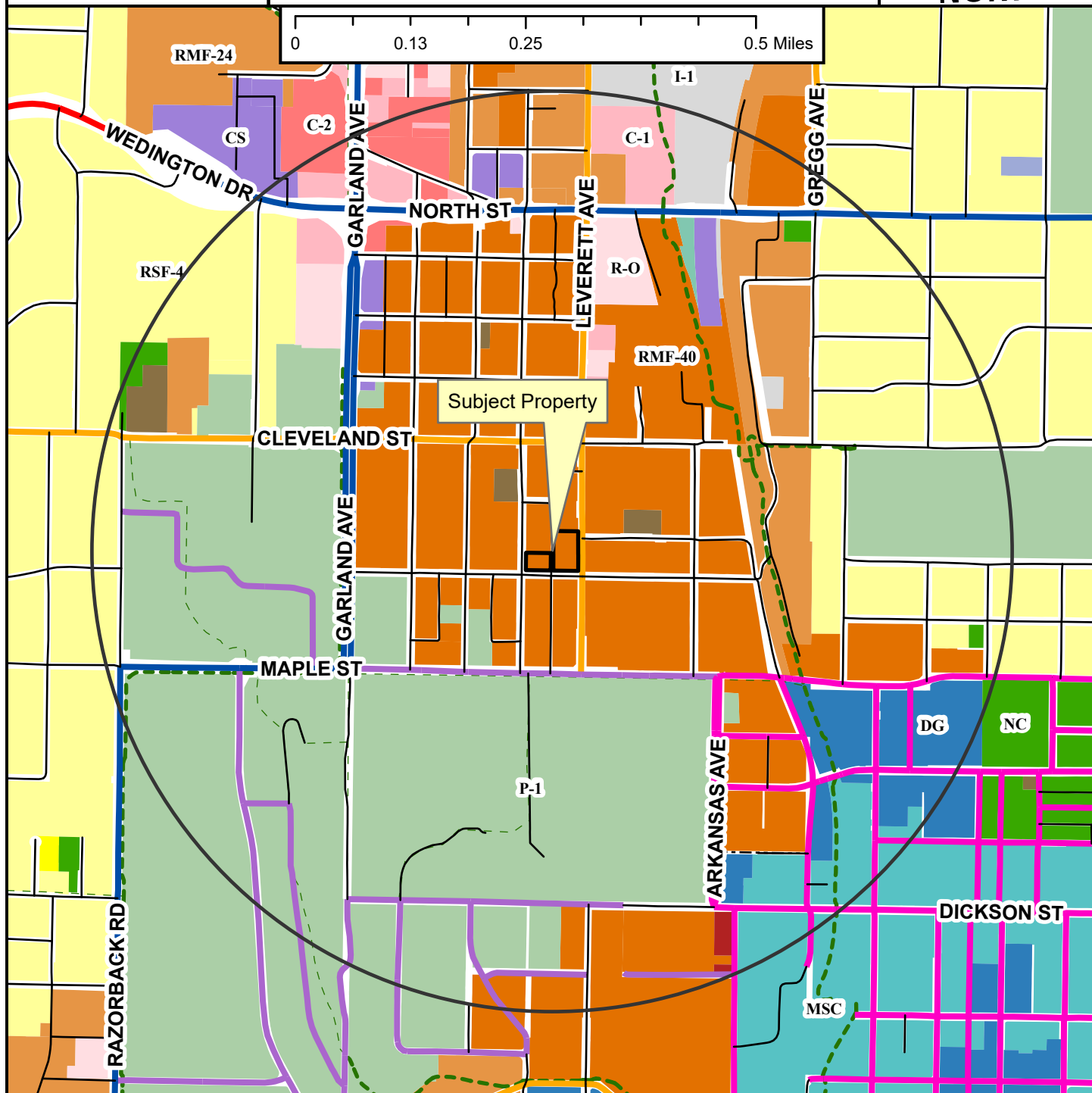


CUP-2023-0081

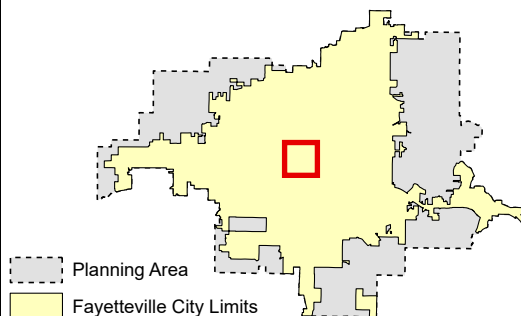
603 N. LEVERETT AVE

One Mile View

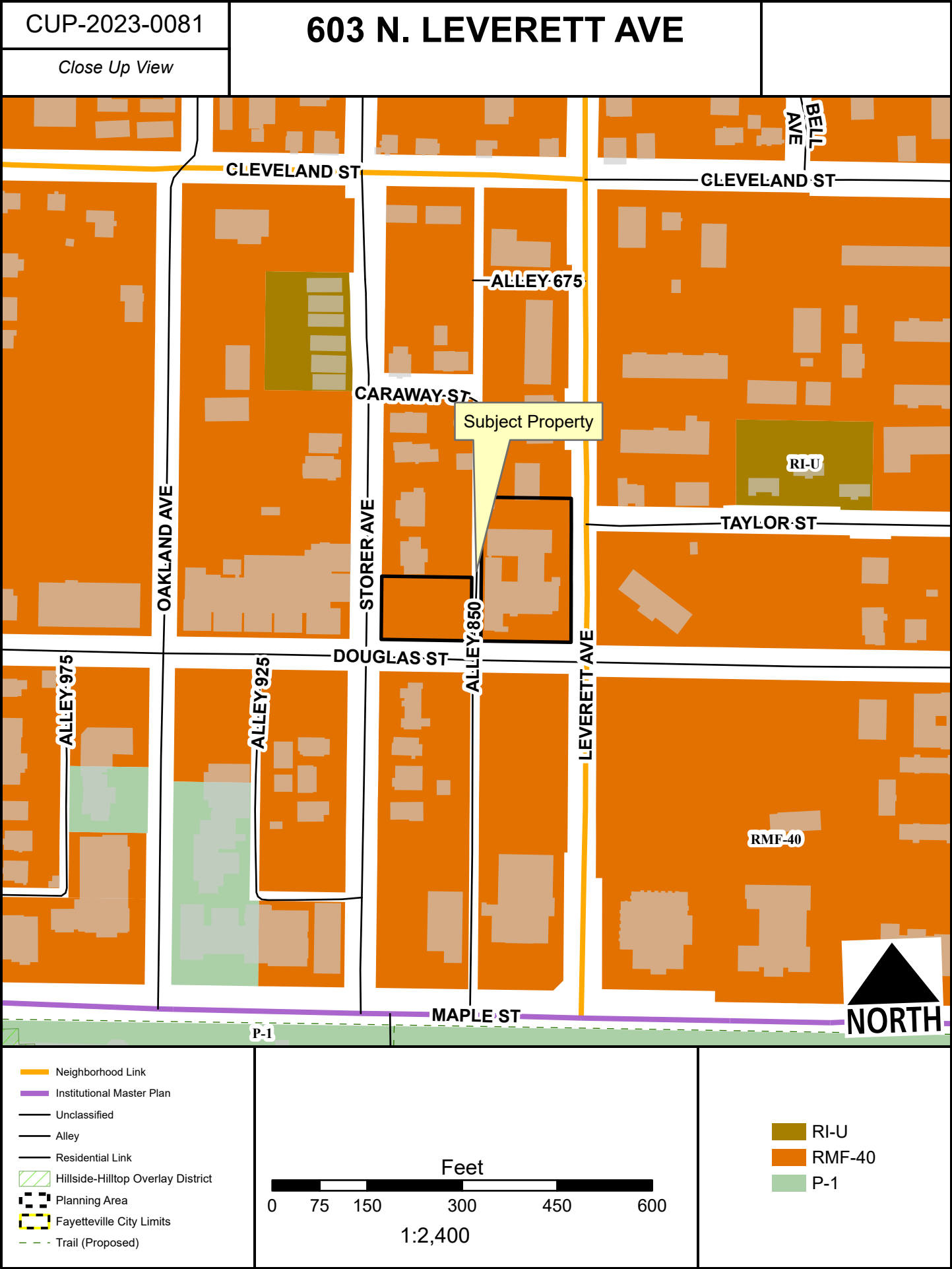
NORTH



-  Regional Link
-  Neighborhood Link
-  Institutional Master Plan
-  Regional Link - High Activity
-  Urban Center
-  Unclassified
-  Alley
-  Residential Link
-  Shared-Use Paved Trail
-  Trail (Proposed)
-  Design Overlay District
-  Fayetteville City Limits
-  Planning Area



-
- Zoning**
- 1-2 General Industrial
- RESIDENTIAL SINGLE-FAMILY**
- NS-G
 - RI-U
 - RI-12
 - NS-L
 - Residential-Agricultural
 - RSF-5
 - RSF-1
 - RSF-2
 - RSF-4
 - RSF-7
 - RSF-8
 - RSF-18
- COMMERCIAL**
- Residential-Office
 - C-1
 - C-2
 - C-3
- FORM BASED DISTRICTS**
- Downtown Core
 - Urban Thoroughfare
 - Main Street Center
 - Downtown General
 - Community Services
 - Neighborhood Services
 - Neighborhood Conservation
- RESIDENTIAL MULTI-FAMILY**
- RMF-6
 - RMF-12
 - RMF-18
 - RMF-24
 - RMF-40
- PLANNED ZONING DISTRICTS**
- Commercial, Industrial, Residential
- INSTITUTIONAL**
- P-1
- INDUSTRIAL**
- Heavy/Commercial and Light Industrial



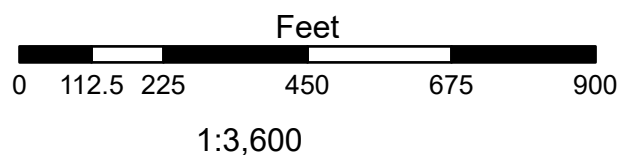
CUP-2023-0081

603 N. LEVERETT AVE

Current Land Use



- Neighborhood Link
- Institutional Master Plan
- Urban Center
- Unclassified
- Alley
- Residential Link
- Trail (Proposed)
- Planning Area
- Fayetteville City Limits



FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: August 14, 2023

SUBJECT: **RZN-2023-0019: Rezoning (1634 W. MARTIN LUTHER KING JR BLVD./GREEN MEADOW CAPITAL, 521):** Submitted by GMB KB FAYETTEVILLE LLC for property located at 1634 W. MARTIN LUTHER KING JR. BLVD. The property is split zoned R-O, RESIDENTIAL OFFICE AND C-2, THOROUGHFARE COMMERCIAL and contains approximately 0.88 acres. The request is to rezone the property to C-2, THOROUGHFARE COMMERCIAL.

RECOMMENDATION:

Staff recommends forwarding **RZN-2023-0019** to City Council with a recommendation of approval.

RECOMMENDED MOTION:

*"I move to forward **RZN-2023-0019** to City Council with a recommendation of approval."*

BACKGROUND:

The subject property is in southwest Fayetteville approximately ¼ mile west of the S. Razorback Rd. and W. Martin Luther King Jr. Blvd. intersection. It is currently split zoned R-O, Residential Office and C-2, Thoroughfare Commercial, and is not part of an overlay district. The project is currently developed with a Boss Man Tacos, Burrito & More Restaurant split between three parcels. The building is bisected by both the split in zoning and a parcel line. The surrounding zoning and land uses are depicted below in Table 1.

Table 1:
Surrounding Land Uses and Zoning

Direction	Land Use	Zoning
North	Multi-Family Residential	RMF-24, Residential Multi-Family, 24 Units per Acre
South	Restaurant	C-2, Thoroughfare Commercial
East	University of Arkansas	RMF-24, Residential Multi-Family, 24 Units per Acre
West	Restaurant	R-O, Residential Office C-2, Thoroughfare Commercial

Request: The request is to rezone the property from a split zoning of R-O, Residential Office and C-2, Thoroughfare Commercial to be entirely C-2, Thoroughfare Commercial.

Public Comment: Staff has not received any public comment at this time.

INFRASTRUCTURE AND ENVIRONMENTAL REVIEW

Streets: The subject area has frontage along W. Martin Luther King Jr. Blvd., a fully improved Regional Link-High Activity Street with asphalt paving, curb & gutter, and sidewalk. The subject area has frontage along S. Eastern Ave. and W. Venus St., both fully improved Residential Links with asphalt paving, curb & gutter, and sidewalk. Any street improvements required in these areas would be determined at the time of development proposal. Any additional improvements or requirements for drainage will be determined at time of development.

Water: Public water is available to the subject area. An existing 12-inch water main is present on the north side of W. Martin Luther King Jr. Blvd. An existing 6-inch water main is present on the east side of S. Eastern Ave. and the south side of W. Venus St.

Sewer: Sanitary Sewer is available to the subject area. An existing 6-inch sewer main is present on the north side of W. Martin Luther King Jr. Blvd., the east side of South Eastern Avenue, and the north side of West Venus Street.

Fire: Fire apparatus access and fire protection water supplies will be reviewed for compliance with the Arkansas Fire Prevention Code at the time of development. Station 6, located at 990 S. Hollywood Avenue, protects this site. The property is located approximately 0.5 miles from the fire station with an anticipated drive time of approximately 2 minutes using existing streets. The anticipated response time would be approximately 4.2 minutes. Fire Department response time is calculated based on the drive time plus 1 minute for dispatch and 1.2 minutes for turn-out time. Within the City Limits, the Fayetteville Fire Department has a response time goal of 6 minutes for an engine and 8 minutes for a ladder truck.

Police: The Police Department expressed no concerns with this request.

Drainage: No portion of the property is within a FEMA floodplain or Streamside Protection Zone, nor are Hydric soils are present on the property. Additionally, no portion of the property is located in the Hillside-Hilltop Overlay District.

Tree Preservation:

The proposed zoning district of C-2, Thoroughfare Commercial requires **15% minimum canopy preservation**. The current zoning district of R-O, Residential Office requires **20% minimum canopy preservation**.

CITY PLAN 2040 FUTURE LAND USE PLAN: City Plan 2040 Future Land Use Plan designates the property within the proposed rezone as **Urban Center**.

Urban Center Areas contain the most intense and dense development patterns within the City and allow for the tallest and greatest variety of buildings. Urban Center accommodates rowhouses, apartments, local and regional retail, hotels, clean technology industries and entertainment uses. These areas are typified by their location adjacent to major thoroughfares with high visibility. Although Urban Center Areas recognize the conventional big box and strip retail centers existing along major arterials, it is expected that vacant properties will be developed

into traditional mixed-use centers, allowing people to live, work and shop in the same area. Additionally, infill of underperforming or undervalued existing big box and strip centers should be strongly encouraged since there is a greater return on investment for redevelopment of these areas that have existing public infrastructure such as streets, sidewalks, trails, water, sewer and parklands.

CITY PLAN 2040 INFILL MATRIX: City Plan 2040's Infill Matrix indicates a score of 8 for this site, with a weighted score of 8.5 at the highest. The following elements of the matrix contribute to the score:

- 4-Minute Fire Response (Station 6)
- Near Sewer Main (See Sewer Above)
- Near Water Main (See Water Above)
- Near Public School (Ramay Jr. High / ALLPS School of Innovation)
- Near University of Arkansas Campus
- Near Paved Trail (Side Path Trail)
- Near Razorback Bus Stop (Lot 54A)
- Appropriate Future Land Use

FINDINGS OF THE STAFF

1. A determination of the degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

Finding: Land Use Compatibility: Staff finds the request to be compatible with the surrounding context. The parcel is adjacent to a regional link-high activity street (W. Martin Luther King Jr. Blvd.) and is already fully developed as a commercial property. The parcel is adjacent to commercial developments to the east and west, with primarily multi-family residential properties making up the remainder of the adjacent properties. A small pocket of industrial property is directly south of W. Martin Luther King Jr. Boulevard. The current zoning, Residential Office, allows many commercial uses such as limited business; and offices, studios, and related services by right, with others such as eating places; neighborhood shopping goods; clean technologies; and small-scale production allowed by conditional use permit.

Land Use Plan Analysis: Staff finds that the request is consistent with adopted land use policies, the Future Land Use Map designation, and goals of City Plan 2040. The property has a weighted infill score of 8.5. A moderate-high infill score indicates that the area can likely support additional intensity if it is feasible under the proposed zoning entitlements. The request meets Goal 1 of City Plan 2040 "We will make appropriate infill and revitalization our highest priorities: encouraging the development or redevelopment of vacant, mostly vacant, and underdeveloped property," by providing the opportunity for additional commercial infill along a regional high-activity link. Residential uses are not permitted in the C-2 zoning district.

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: Staff finds that a rezoning to C-2 is justified. Currently, the property is split-zoned between R-O and C-2, with the existing restaurant split between them. Staff was unable to locate a conditional use permit for Use Unit 13: Eating Places within the R-O portion of the property and rezoning the parcel would bring the restaurant into zoning compliance for the existing use. Further, the purpose of the C-2 zoning district is “to encourage the functional grouping of these commercial enterprises catering primarily to highway travelers,” which is compatible with the properties location along a major thoroughfare.

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: The property is currently developed with a commercial restaurant constructed in 2011. A rezoning from R-O to C-2 will increase the developable area of the lot even if the existing building remains. The change from R-O to C-2 would eliminate lot area minimums, reduce the side setback from 15 feet to 0 feet, reduce the rear setback from 25 feet to 20 feet, and allow the construction of an additional story of building height if developed using traditional standards. If redeveloped using urban form standards, the existing 50-foot front setback would be replaced by a build to zone located from 10-25 feet from the property line, and the rear setback would be further reduced to 15 feet. However, staff does not anticipate this will significantly increase traffic danger or congestion. Shared drives within access easements are currently used for both W. Martin Luther King Jr. Blvd. and W. Venus Street, and additional development is not anticipated to substantially impact these streets.

4. A determination as to whether the proposed zoning would alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

Finding: Rezoning the property to C-2 is unlikely to alter the population density of the city. Residential uses are not permitted in the C-2 zoning district.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:
 - a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
 - b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: N/A

RECOMMENDATION: Planning staff recommend forwarding RZN-2023-0019 to City Council with a recommendation of approval.

PLANNING COMMISSION ACTION: Required YES

Date: August 14, 2023

☐ Tabled

☐ Forwarded

☐ Denied

Motion:

Second:

Vote:

BUDGET/STAFF IMPACT:

None

Attachments:

- Unified Development Code:
 - §161.23 District C-2, Thoroughfare Commercial
 - §161.23 District C-2, Thoroughfare Commercial
- Applicant Request Letter
- One Mile Map
- Close-up Map
- Current Land Use Map
- Future Land Use Map

161.20 District R-O, Residential Office

(A) *Purpose.* The Residential-Office District is designed primarily to provide area for offices without limitation to the nature or size of the office, together with community facilities, restaurants and compatible residential uses. The intent of this district is to allow administrative approval if the developer decides to use urban form, in compliance with the build-to zone and minimum buildable street frontage as specified herein.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 5	Government facilities
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 12a	Limited business
Unit 25	Offices, studios, and related services
Unit 41	Accessory dwellings
Unit 44	Cluster Housing Development
Unit 46	Short-term rentals

(2) *Conditional Uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 11	Manufactured home park*
Unit 13	Eating places
Unit 15	Neighborhood shopping goods
Unit 24	Home occupations
Unit 26	Multi-family dwellings
Unit 36	Wireless communications facilities*
Unit 42	Clean technologies
Unit 45	Small scale production

(C) *Density.*

Units per acre	24 or less
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(D) *Bulk and Area Regulations.* (Per dwelling unit for residential structures)

(1) *Lot Width Minimum.*

Manufactured home park	100 feet
Lot within a manufactured home park	50 feet
Single-family	60 feet
Two (2) family	60 feet
Three (3) or more	90 feet

(2) *Lot Area Minimum.*

Manufactured home park	3 acres
Lot within a manufactured home park	4,200 square feet
Townhouses:	
Development	10,000 square feet
Individual lot	2,500 square feet
Single-family	6,000 square feet
Two (2) family	6,500 square feet
Three (3) or more	8,000 square feet
Fraternity or Sorority	1 acre

(3) *Land Area Per Dwelling Unit.*

Manufactured home	3,000 square feet
Townhouses & apartments:	
No bedroom	1,000 square feet
One bedroom	1,000 square feet
Two (2) or more bedrooms	1,200 square feet
Fraternity or Sorority	500 square feet per resident

(E) *Setback Regulations.*

Front	15 feet
Front, if parking is allowed between the right-of-way and the building	50 feet
Front, in the Hillside Overlay District	15 feet
Side	10 feet
Side, when contiguous to a residential district	15 feet
Side, in the Hillside Overlay District	8 feet
Rear, without easement or alley	25 feet
Rear, from center line of public alley	10 feet
Rear, in the Hillside Overlay District	15 feet

Urban Form Setback Regulations:

Front	A build-to zone that is located between the front property line and a line 25 feet from the front property line
Side	5 feet
Side-zero lot line*	A setback of less than 5 feet (zero lot line) is permitted on one (1) interior side, provided a maintenance agreement is filed.** The remaining side setback(s) shall be 10 feet
Rear	None

Rear when contiguous to a single family residential district	15 feet
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(F) *Building Height Regulations.*

Building Height Maximum	5 stories
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If a building exceeds the height of two (2) stories, the portion of the building that exceeds two (2) stories shall have an additional setback from any side boundary line of an adjacent single family district. The amount of additional setback for the portion of the building over two (2) stories shall be equal to the difference between the total height of that portion of the building, and two (2) stories.

(G) *Building Area.* On any lot, the area occupied by all buildings shall not exceed 60% of the total area of such lot. Accessory ground mounted solar energy systems shall not be considered buildings.

(H) Urban form minimum buildable street frontage: 50% of the lot width.

(Code No. 1965, App. A., Art. 5(x); Ord. No. 2414, 2-7-78; Ord. No. 2603, 2-19-80; Ord. No. 2621, 4-1-80; Ord. No. 1747, 6-29-70; Code 1991, §160.041; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. No. 4726, 7-19-05; Ord. No. 4943, 11-07-06; Ord. No. 5079, 11-20-07; Ord. No. 5195, 11-6-08; Ord. No. 5224, 3-3-09; Ord. No. 5312, 4-20-10; Ord. No. 5462, 12-6-11; Ord. No. 5735 1-20-15; Ord. No. 5800 , §1(Exh. A), 10-6-15; Ord. No. 5921 , §1, 11-1-16; Ord. No. 5945 , §§5, 7—9, 1-17-17; Ord. No. 6015 , §1(Exh. A), 11-21-17; Ord. No. 6164 , §§1, 2, 3, 4-2-19; Ord. No. 6245 , §2, 10-15-19; Ord. No. 6427 , §§1(Exh. C), 2, 4-20-21)

Editor's note(s)—Ord. No. 6625 , §1 adopted December 6, 2022, "determines that Section 2 of Ordinance 6427 (Sunset Clause) be amended so that Ordinance 6427 and all amendments to Code Sections ordained or enacted by Ordinance 6427 shall automatically sunset, be repealed and become void on December 31, 2023, unless prior to that date the City Council amends this ordinance to repeal or further amend this sunset, repeal and termination section."

161.23 District C-2, Thoroughfare Commercial

(A) *Purpose.* The Thoroughfare Commercial District is designed especially to encourage the functional grouping of these commercial enterprises catering primarily to highway travelers. The intent of this district is to allow administrative approval if the developer decides to use urban form, in compliance with the build-to zone and minimum buildable street frontage as specified herein.

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 5	Government Facilities
Unit 13	Eating places
Unit 14	Hotel, motel, and amusement facilities
Unit 16	Shopping goods
Unit 17	Transportation trades and services
Unit 18	Gasoline service stations and drive-in/drive-through restaurants
Unit 19	Commercial recreation, small sites
Unit 20	Commercial recreation, large sites
Unit 25	Offices, studios, and related services
Unit 33	Adult live entertainment club or bar
Unit 34	Liquor store
Unit 40	Sidewalk Cafes
Unit 44	Cluster Housing Development
Unit 45	Small scale production
Unit 46	Short-term rentals

(2) *Conditional Uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 21	Warehousing and wholesale
Unit 28	Center for collecting recyclable materials
Unit 29	Dance Halls
Unit 32	Sexually oriented business
Unit 35	Outdoor music establishments
Unit 36	Wireless communications facilities
Unit 38	Mini-storage units
Unit 42	Clean technologies
Unit 43	Animal boarding and training

(C) *Density.* None.

(D) *Bulk and Area Regulations.* None.

(E) *Setback Regulations.*

Front	15 feet
Front, if parking is allowed between the right-of-way and the building	50 feet
Side	None
Side, when contiguous to a residential district	15 feet
Rear	20 feet

Urban Form Setback Regulations:

Front	A build-to zone that is located between 10 feet and a line 25 feet from the front property line
Side and rear	None
Side or rear, when contiguous to a single-family residential district	15 feet

(F) *Building Height Regulations.*

Building Height Maximum	6 stories*
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* If a building exceeds the height of two (2) stories, the portion of the building that exceeds two (2) stories shall have an additional setback from side boundary line of an adjacent residential district. The amount of additional setback for the portion of the building over two (2) stories shall be equal to the difference between the total height of that portion of the building, and two (2) stories.

(G) *Building Area.* On any lot, the area occupied by all buildings shall not exceed 60% of the total area of such lot. Accessory ground mounted solar energy systems shall not be considered buildings.

(H) Urban form minimum buildable street frontage: 50% of the lot width.

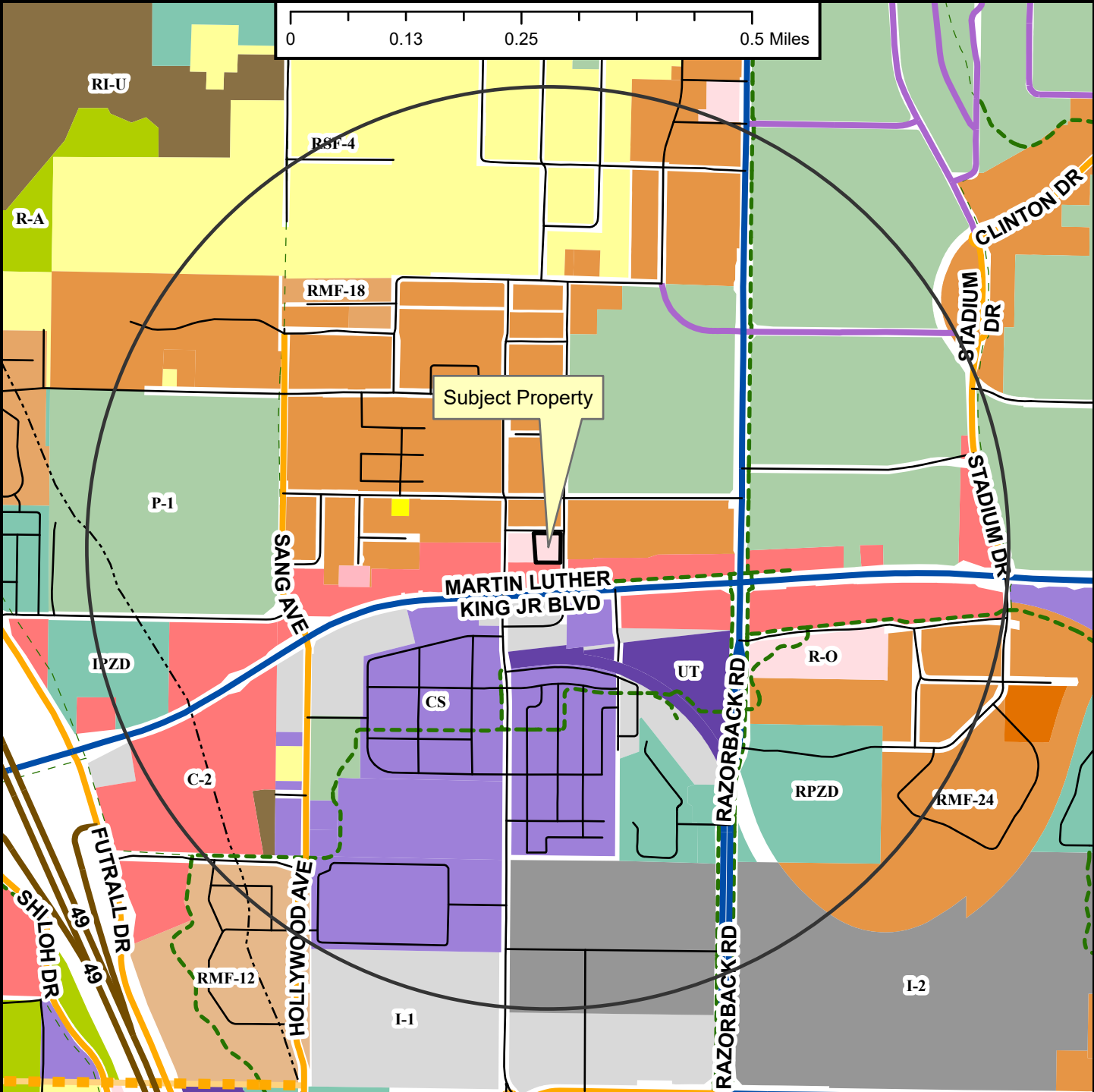
(Code 1965, App. A., Art. 5(VI); Ord. No. 1833, 11-1-71; Ord. No. 2351, 6-2-77; Ord. No. 2603, 2-19-80; Ord. No. 1747, 6-29-70; Code 1991, §160.036; Ord. No. 4034, §3, 4, 4-15-97; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. No. 4727, 7-19-05; Ord. No. 4992, 3-06-07; Ord. No. 5028, 6-19-07; Ord. No. 5195, 11-6-08; Ord. No. 5312, 4-20-10; Ord. No. 5339, 8-3-10; Ord. No. 5353, 9-7-10; Ord. No. 5462, 12-6-11; Ord. No. 5592, 6-18-13; Ord. No. 5664, 2-18-14; Ord. No. 5735, 1-20-15; Ord. No. 5800, §1(Exh. A), 10-6-15; Ord. No. 5921, §1, 11-1-16; Ord. No. 5945, §§5, 7, 1-17-17; Ord. No. 6015, §1(Exh. A), 11-21-17; Ord. No. 6164, §§1, 6, 7, 4-2-19; Ord. No. 6223, §1, 9-3-19; Ord. No. 6245, §2, 10-15-19; Ord. No. 6521, §5, 1-18-22)

RZN-2023-0019

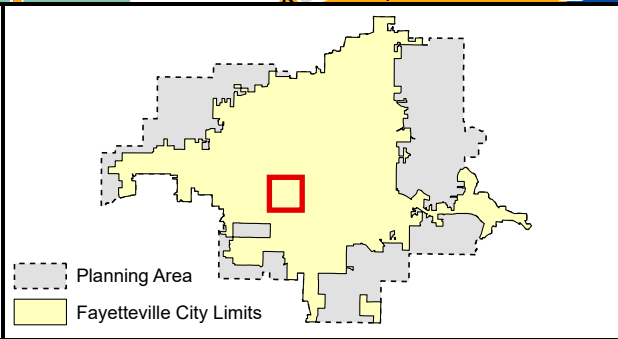
One Mile View



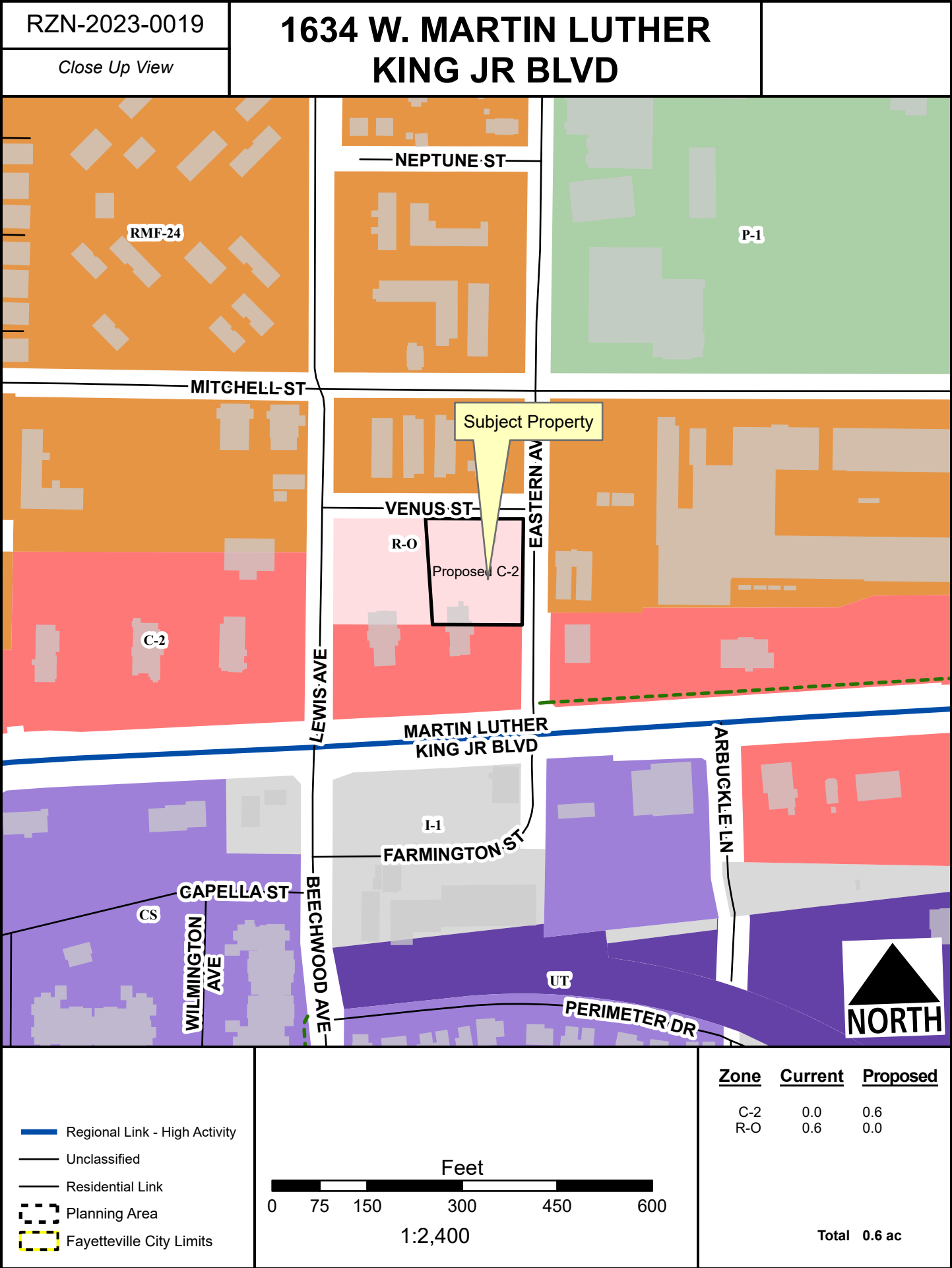
**1634 W. MARTIN LUTHER
KING JR BLVD**

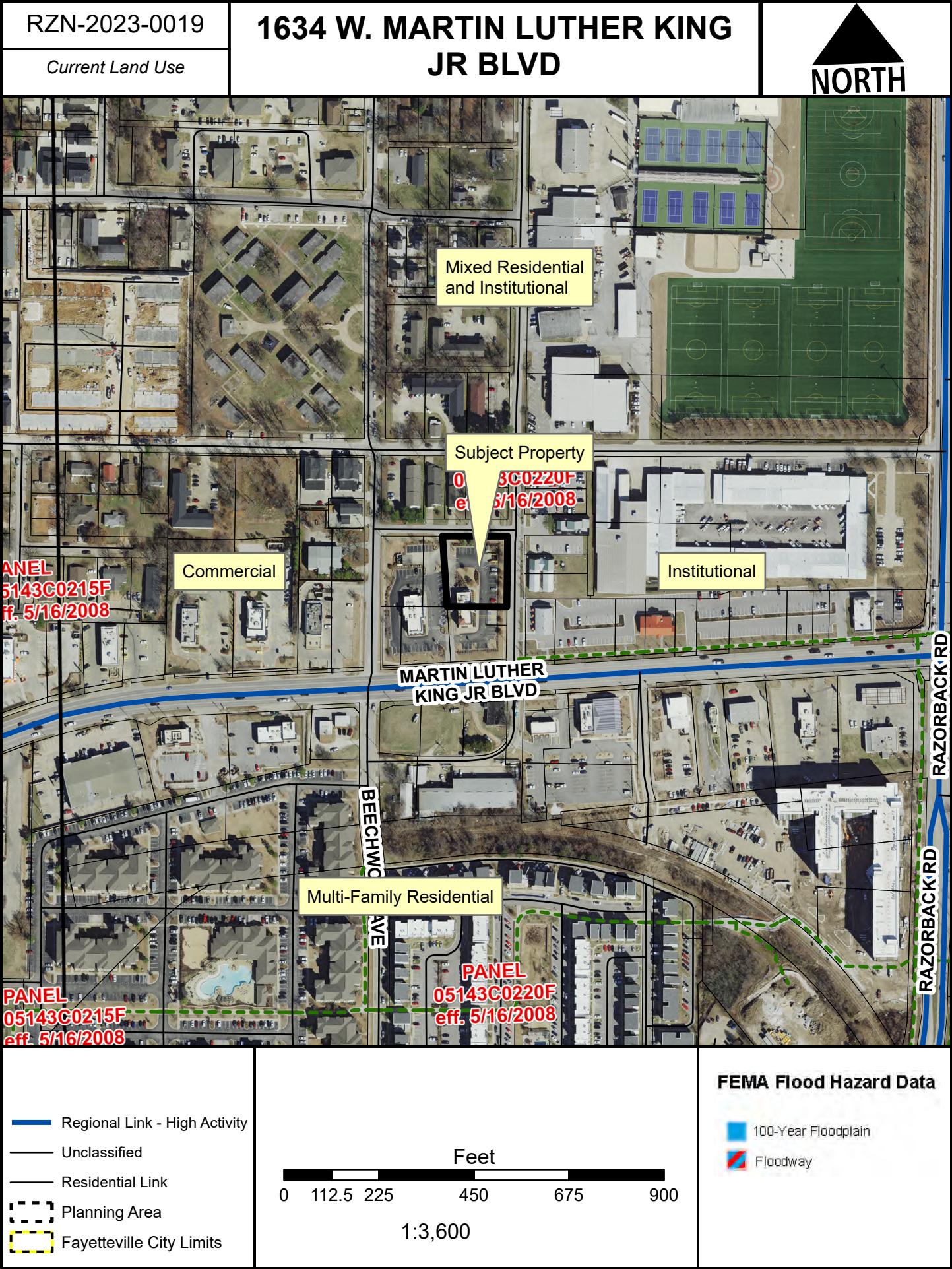


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- Regional Link
 ■ Neighborhood Link
 ■ Institutional Master Plan
 ■ Regional Link - High Activity
 ■ Freeway/Expressway
 — Unclassified
 — Residential Link
 ■ Planned Neighborhood Link
 ■ Shared-Use Paved Trail
 — Trail (Proposed)
 [Dashed Box] Design Overlay District
 [Yellow Box] Fayetteville City Limits
 [Black Box] Planning Area



-
- Zoning**
- RESIDENTIAL SINGLE-FAMILY**
- NS-G
 - RI-U
 - RI-12
 - NS-L
 - Residential-Agricultural
 - RSF-5
 - RSF-1
 - RSF-2
 - RSF-4
 - RSF-7
 - RSF-8
 - RSF-18
- RESIDENTIAL MULTI-FAMILY**
- RMF-6
 - RMF-12
 - RMF-18
 - RMF-24
 - RMF-40
- INDUSTRIAL**
- I-1 Heavy Commercial and Light Industrial
- I-2 General Industrial**
- EXTRACTION**
- E-1
- COMMERCIAL**
- Residential-Office
 - C-1
 - C-2
 - C-3
- FORM BASED DISTRICTS**
- Downtown Core
 - Urban Thoroughfare
 - Main Street Center
 - Downtown General
 - Community Services
 - Neighborhood Services
 - Neighborhood Conservation
- PLANNED ZONING DISTRICTS**
- Commercial, Industrial, Residential
- INSTITUTIONAL**
- P-1







TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: August 14, 2023

SUBJECT: **CUP-2023-0084: Conditional Use Permit (146 N. PALMER AVE./DUNHAM, 482):** Submitted by ROBERT DUNHAM for property located at 146 N. PALMER AVE. The property is zoned RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE and contain approximately 0.20 acres. The request is to use the dwelling as a short-term rental.

RECOMMENDATION:

Staff recommends approval of **CUP-2023-0084**, with conditions as outlined by staff.

RECOMMENDED MOTION:

*"I move to approve **CUP-2023-0084** with conditions, determining:*

- In favor of compatibility with adjacent properties;*
- In favor of all other conditions as recommended by staff."*

BACKGROUND:

The subject property is located to the west of the University of Arkansas within ¼ mile of both Razorback Stadium and John McDonnell Field. The property is zoned RSF-4, Residential Single-Family, Four Units per Acre, and is not part of any overlay district. The parcel totals approximately 0.20 acres and is developed with a 1,773 square foot single-family structure built in 2003 per the Washington County Assessor. On April 20, 2021, City Council adopted an ordinance to regulate short-term rentals operating within its limits. On December 20, 2022, City Council amended the ordinance to enact new requirements for short-term rentals, and on July 6, 2023, City Council amended the Type 2 short-term rental density cap requirements from 2% city-wide, to 475 total. This report reflects those new changes for consideration. Surrounding land use and zoning are depicted in *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Single-family Residential	RSF-4, Residential Single-family, 4 Units per Acre
South	Single-family Residential	RSF-4, Residential Single-family, 4 Units per Acre
East	Single-family Residential	RSF-4, Residential Single-family, 4 Units per Acre
West	Hotz Park	P-1, Institutional

City Plan 2040 Future Land Use Designation: **Residential Neighborhood**

Proposal: The applicant requests conditional use permit approval to use the property as a Type 2 short-term rental, which are those not occupied by a permanent resident. Type 2 short-term rentals are subject to density limitations, including a citywide cap of 475 units, and restrictions on the number of units that may be used as a short-term rental in multi-family dwelling complexes.

Public Comment: Staff has not received any public comment regarding this request.

RECOMMENDATION: Staff recommends approval of **CUP-2023-0084**, with the following conditions;

Conditions of Approval:

1. **Planning Commission determination of compatibility.** *Staff finds the proposed short-term rental to be compatible with the neighborhood based on the findings in this report;*
2. Approval of the conditional use permit does not ensure approval of a business license application. The applicant must still be able to comply with all other applicable requirements in the development code.
3. Per §166.20, Expiration of Approved Plans and Permits, a business license must be obtained within 1 year of conditional use permit approval.
4. Per ordinance, the number of occupants is limited to a maximum of two people per bedroom, plus two, for the entire unit when the property is operated as a short-term rental.
5. Special events including, but not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars are prohibited from occurring in the short-term rental.
6. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.
7. All trash receptacles shall be screened from view of the right-of-way.
8. All outdoor lighting shall meet requirements as outlined in §176, Outdoor Lighting.
9. Any signage shall meet the requirements as outlined in §174, Signage.
10. Per 120.02(A), the owners of only short-term rentals shall be required to designate and register their Landlord's Representative into the Landlord's Representative Registry.
11. The driveway shall be limited to two vehicle parking spaces.

PLANNING COMMISSION ACTION:				Required	<u>YES</u>
Date:	<u>August 14, 2023</u>	☐ Tabled	☐ Approved	☐ Denied	
Motion:					
Second:					
Vote:					

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

1. Hear and decide only such special exemptions as it is specifically authorized to pass on by the terms of this chapter.
2. Decide such questions as are involved in determining whether a conditional use should be granted; and,
3. Grant a conditional use with such conditions and safeguards as are appropriate under this chapter; or
4. Deny a conditional use when not in harmony with the purpose and intent of this chapter.

C. A conditional use shall not be granted by the Planning Commission unless and until:

1. A written application for a conditional use is submitted indicating the section of this chapter under which the conditional use is sought and stating the grounds on which it is requested.

Finding: The applicant has submitted a written application requesting a conditional use permit for a Type 2 short-term rental in the RSF-4 zoning district.

2. The applicant shall pay a filing fee as required under Chapter 159 to cover the cost of expenses incurred in connection with processing such application.

Finding: The applicant has paid the required filing fee.

3. The Planning Commission shall make the following written findings before a conditional use shall be issued:

(a.) That it is empowered under the section of this chapter described in the application to grant the conditional use; and

Finding: The Planning Commission is empowered under Unified Development Code §118.01(E)(2) to grant the requested conditional use permit.

(b.) That the granting of the conditional use will not adversely affect the public interest.

Finding: Staff finds that granting the requested conditional use is unlikely to negatively affect the public interest, given the applicable business license requirements including a required building safety inspection, and applicable density caps on Type 2 short-term rentals.

(c.) The Planning Commission shall certify:

(1.) Compliance with the specific rules governing individual conditional uses; and

Finding: There are specific rules governing Short-Term Rentals, as follows:

§163.18 - SHORT-TERM RENTALS

A. General Standards.

(1) *Residential Zoning Districts.* Residential Zoning Districts. Type 2 short-term rentals may be permitted as a conditional use in the following residential zoning districts: R-A, RSF-.5, RSF-1, RSF-2, RSF-4, RSF-7, RSF-8, RSF-18, RI-12, RI-U, RMF-6, RMF-12, RMF-18, RMF-24, RMF-40, NC. Short term rentals may be permitted by right or by conditional use in planned zoning districts subject to the zoning regulations enacted by the City Council for each district. Short-term rentals in non-residential zoning districts, mixed use zoning districts, or other zoning districts not listed above are not required to apply for a conditional use permit.

Finding: The request is to operate a Short-Term Rental, Use Unit 46, in RSF-4 zoning, which requires a conditional use permit.

(2) *Occupancy.* Maximum of two (2) people per bedroom, plus two (2), for the entire unit when operated as a short-term rental.

Finding: Occupancy is limited as described in UDC §163.18(A)(3). Occupancy limitations are confirmed by the applicant during licensing. Since this house contains four bedrooms, occupancy will be limited to a maximum of ten guests.

(3) *Parking.* Parking is limited to the maximum number of vehicles as allowed by the underlying zoning district for the residential building on the property.

Finding: Staff recommends parking is limited as described in UDC §163.18(A)(4). Parking for single-family dwellings is required to be provided at a rate of two spaces per unit. According to the applicant the structure has four bedroom and six parking spaces; two spaces in an attached garage and four in the driveway; however staff notes that parking two rows of standard size vehicles (19 feet each) would likely cause vehicles to overhang the sidewalk

as it is only 36 feet in length. Staff recommends a condition that parking in the driveway be limited to two vehicles.

(4) Special events are not permitted in a short-term rental. Example of special events include, but are not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars.

Finding: The application letter suggests the property will comply with the City's regulations for a short-term rental. As a condition of approval, staff recommends a prohibition on special events.

(5) Short-term rental units are allowed in any structure established as a permanent residential dwelling including an accessory dwelling unit. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

Finding: The application is for use of the property at 146 N. Palmer Ave. Staff recommends a condition confirming that no recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

(6) Exceptions. Exceptions to the short-term rental standards, except proposals that would exceed the city-wide density maximum, may be granted by the Planning Commission as a conditional use permit.

Finding: Type 2 short-term rentals are subject to a citywide density cap at 475 business licenses. As of August 7, 2023, the City had issued 392 Type 2 short-term rental licenses. Granting a CUP for this location would entitle the applicant to apply for a business license, but does not guarantee its approval. No exceptions are being requested to density requirements.

(7) Short-term rentals must comply with all applicable codes under City Code §118.01 and successfully obtain a business license prior to operation.

Finding: This short-term rental would be subject to all codes in Business Regulations §118.01 that apply to Type 2 short-term rentals in residential zoning districts. Applicable business licensing requirements will be reviewed by staff and confirmed by the applicant at the time of licensing.

(8) Short-term rentals in residential zoning districts may be subject to denial or additional conditions based upon the Planning Commission's findings on the following factors:

- 1) Adequate parking infrastructure;
- 2) Adequate adjoining or nearby streets for on-street parking;
- 3) Frequency or concentration of nearby licensed Type 2 short-term rentals; and
- 4) Prior zoning or code violations.

Finding: There appears to be adequate parking available to support the use of the property as a short-term rental based on the applicant's submittal. Two garage spaces are available, and staff recommends off-street parking spaces for guests in an existing driveway be limited to two vehicles to avoid vehicles overhanging the sidewalk. No on street parking is available as "No Parking" signs are posted along S. Palmer Ave. City records indicate five

other units within a quarter-mile radius of the subject property have an active Type 2 short-term rental business license. Two zoning or code violations were found for this address. One violation for tall grass was opened in 2007, and a second was opened in 2021 for vehicles parking in the grass. Both violations have since been closed.

§163.02, AUTHORITY; CONDITIONS; PROCEDURES. (continued)

(2.) That satisfactory provisions and arrangements have been made concerning the following, where applicable:

(a.) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe;

Finding: The property has frontage along S. Palmer Avenue with a narrow flag lot onto W. Hotz Drive, both narrow paved streets with “No Parking” signs posted. Staff finds that, with conditions limiting parking within the driveway, the proposal will not adversely affect traffic flows considering the use of the property would be limited to a maximum of 10 guests, which would not be out of character with use of the property for residential purposes.

(b.) Off-street parking and loading areas where required, with particular attention to ingress and egress, economic, noise, glare, or odor effects of the special exception on adjoining properties and properties generally in the district;

Finding: Per the applicant’s submittal, a total of six parking spaces are available. Two spaces are within a garage with the remaining four located in a paved driveway. The short-term rental ordinance limits the number of guest vehicles to the maximum number of vehicles as allowed by the underlying zoning district. Staff recommends a condition be added limited parking in the driveway to two given the likelihood of overhanging the sidewalk.

(c.) Refuse and service areas, with particular reference to ingress and egress, and off-street parking and loading,

Finding: The applicant proposes typical residential trash cart service. Staff recommends storage of the containers should be screened from public view when not at the curb for residential pick-up. The applicant proposes to store the trash carts within the garage, which would meet the intent of the screening condition.

(d.) Utilities, with reference to locations, availability, and compatibility;

Finding: Utilities are currently available to the site, and the use as a short-term rental is not anticipated to impact the provision of utilities.

(e.) Screening and buffering with reference to type, dimensions, and character;

Finding: Staff recommends that residential carts be screened so that they are not visible from the public right-of-way. The applicant proposes to store the trash carts within the garage, which would meet the intent of the screening condition.

(f.) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;

Finding: Any proposed signage will be subject to Unified Development Code section 174 – Signs, and all the regulations therein.

(g.) Required yards and other open space; and

Finding: Based on the applicant's submittal, the structure is meeting relevant setbacks.

(h.) General compatibility with adjacent properties and other property in the district.

Finding: Staff finds the use to be compatible with the surrounding properties. While the residences along N. Palmer Avenue are all detached single-family dwellings, the property is within ¼ mile of both Razorback Stadium and John McDonnell Field, both heavy drivers of tourism. Further, a significant amount of the adjoining area south and east of the property are zoned to allow multi-family dwellings by-right. Staff finds the proposal to be a request for an appropriate short-term rental location.

(i.) General compatibility with the goals and intent of the city's adopted land-use, transportation, and other strategic plans.

Finding: Staff finds the proposed use to be somewhat incompatible with the City's adopted land use, transportation, and other strategic plans since short-term rentals do not clearly support any of the goals identified in those plans. However, there are safeguards in place that limit how short-term rentals operate to ensure that the City can still meet those goals, including a citywide density cap of 475 units and restrictions on the number of units that may be used as a short-term rental in multi-family dwelling complexes.

BUDGET/STAFF IMPACT:

None

Attachments:

- Business Regulations
 - §118.01 Applicability
- Unified Development Code
 - §163.18 Type 2 Short-Term Rentals in Residential Zoning Districts
 - Excerpt of Ordinance 6672
 - §161.07 District RSF-4, Residential Single-Family – Four (4) Units Per Acre
- Applicant Request Letter, including Building Elevations
- Site Plan
- Floor Plan
- One Mile Map
- Close-Up Map
- Current Land Use Map
- STRs within ¼ Mile Map

118.01 Applicability

- (E) *Short-Term Rentals.* A residential dwelling unit, portion of a dwelling unit, or bedroom within a residential dwelling unit, leased and/or rented to a guest(s), for a period of less than thirty consecutive (30) days.
- (1) *Short-Term Rental, Type 1.* A short-term rental where the principal use of the property remains as a full-time residence. The occupants or owner rent their primary residence as a short-term rental. A copy of the Homestead Tax Credit or long-term lease agreement for the subject property is required to be classified as a Type 1 rental. The occupant or owner must occupy the residence for nine (9) months of the year. Accessory dwelling units (ADUs) as defined in Unified Development Code Chapter 151 shall be considered a Type 1 short-term rental.
 - (2) *Short-Term Rental, Type 2.* A short-term rental that is not occupied by a permanent resident. The owner lists this property full-time as a short-term rental and has no intention of having permanent residents living in the property. A conditional use permit is required for a Type 2 short-term rental in a residential zoning district prior to the city issuing a business license.
 - (3) *License Required.* No dwelling unit in the city shall be used as a short-term rental unless:
 - (a) The owner of the dwelling unit or operator of the short-term rental possess a valid and current business license for the dwelling unit, and fully complies with all legal requirements and duties imposed herein with respect to each and every short-term rental; and
 - (b) The owner has designated an agent, where said agent fully complies with all legal requirements and duties imposed herein with respect to every short-term rental. The owner may serve as their own agent.
 - (c) The owner of the dwelling unit or operator of the short-term rental provides proof of a valid and current homeowners insurance rider policy which fully covers each unit when operated as short-term rental unit.
 - (4) A separate business license shall be required for each dwelling unit used as a short-term rental.
 - (5) Any change in ownership requires a new or amended business license.
 - (6) If any required contact information changes for the associated business license, the person to whom the license was issued shall immediately notify the Development Services Department in writing.
 - (7) *License Application.* The application for a business license shall include at minimum, the following information from applicants:
 - (a) The property owner's information including legal name, mailing address, immediate contact phone number, and immediate contact E-mail address.
 - (b) Information for the dwelling unit subject to the application, inclusive of the physical street address assigned by the city.
 - (c) The type and total number of dwelling units located on the lot of record containing the dwelling unit subject to the application.
 - (d) If the owner is not their own agent, the owner designated agent's information including legal name, mailing address, immediate contact phone number and immediate contact E-mail address.
 - (e) Documentation of approval of a life safety and egress inspection by the City Building Safety Division for the dwelling unit subject to the application.
 - (f) Proof of application for remittance of hotel, motel and restaurant tax to the City of Fayetteville, and verification that all sales, use, and hotel, motel and restaurant taxes are current.
 - (g) Any additional data as deemed necessary or desirable for permit approval by the Development Services Director.
 - (8) *License Renewals.* Business licenses for short-term rentals shall be renewed in accordance with Chapter 118 of the Business Regulations (Business Registry and Licenses).
 - (11) *Legal Duties of License Holders.* An owner possessing a short-term rental license shall comply at all times with the following requirements:
 - (a) *Occupancy.* Short-term rentals shall be subject to, and may not exceed, the occupancy limits approved with the business license.
 - (b) *Advertisements.* A short-term rental shall not be advertised if it violates occupancy, density, safety, and any of the other provisions of the Fayetteville Code. No short-term rental unit shall be advertised prior to having obtained a business license and the business license number shall be included in the advertisement listing.
 - (c) *Information and Posting.* Business licensees shall provide to guests and post conspicuously in the common area of the short-term rental unit the city phone number to report a safety complaint.
 - (10) *Owner or Agent Accessibility.* The property owner shall ensure that they or a designated agent are available at all times during guest occupancy, including nights and weekends, in order to facilitate

compliance with this section. For the purposes of these regulations, 'availability' means that the owner or agent is accessible by telephone, and, able to be physically present at the short-term rental within three (3) hours of being contacted.

- (11) *Guest Records.* The owner shall maintain summary guest registration records, which shall contain the actual dates of occupancy, total number of guests per party per stay, and the rate(s) charged, but shall not contain any personally identifiable information about guests. Such records shall be maintained for three (3) years and shall be provided to the City upon request.
 - (12) *Health and Safety.* The owner shall ensure that each dwelling unit governed by this section complies with the applicable provisions of the Unified Development Code Chapter 173, Building Regulations.
 - (13) *Criminal Activity.* The owner shall timely report any known or reasonably suspected criminal activity by a guest to the Fayetteville Police Department within twelve (12) hours maximum.
 - (14) *Taxes and Fees.* Except for those instances in which a hosting platform bears the responsibility for collecting and remitting taxes and fees applicable to short-term rentals, the property owner shall timely remit in full Fayetteville Hotel, Motel and Restaurant tax and other applicable local, state, and federal taxes and city fees owed in connection with any short-term rental. The failure of a hosting platform to collect and remit taxes and fees shall not relieve an owner of the obligation to pay taxes and fees owed pursuant to this section.
 - (15) *Authorization to Occupy, Use, and Operate.* Authorization to operate a short-term rental may be granted by the Development Services Director through the issuance of a City of Fayetteville Business Registry and License (Business License).
 - (16) *Density For Type 2 Short-Term Rentals.* A city-wide density cap of 2% of all dwelling units in the Fayetteville city limits may be utilized as Type 2 rentals. Total dwelling units are determined from current United States Census Bureau and/or American Community Survey numbers, whichever number is higher. A conditional use permit may not permit:
 - (a) More Type 2 short-term rentals than what is allowed by the city-wide density cap. Type 2 short-term rentals in commercial and mixed-use zoning districts where hotel/motels are permitted by right shall not contribute to the city-wide density cap.
 - (b) More than 10% or a single unit whichever is greater; of total dwelling units as Type 2 rentals within a multi-family dwelling complex.
 - (c) Individual 2-, 3- and 4-family buildings that are owned by the same person or entity and are not a part of a multi-family complex shall have no more than one (1) Type 2 short-term rental unit per building complex.
 - (d) Where attached residential units are held separately through condominium association, horizontal property regime, fee simple, or similar ownership structure, no cap shall be applied to buildings with attached residential dwellings. Structures of attached residential dwellings where applicants seek more than 10% of total units for licensing as Type 2 rentals shall be evaluated by the Building Safety Director and/or Fire Marshal for adequate fire protection as defined by the adopted Arkansas Fire Prevention Code. Where inadequate fire protection is identified, improvements may be required prior to issuance of a business license.
 - (17) *Suspension and Revocation.* If the Development Services Director has reason to believe that any of the grounds specified in §118.03(A) of the Fayetteville Code exist, or that any rental unit was rented for less than one (1) full night, or to more than one (1) part of guests for the same period of time, or otherwise failed to comply with all terms and conditions of this section, the Development Services Director may suspend or revoke the short-term rental's business license pursuant to the procedures detailed in §118.03 and in §118.04 of the Fayetteville Code.
 - (18) Short-term rentals must comply with all applicable codes under Unified Development Code §163.18 and § 164.26 successfully obtain a business license prior to operation.
- (Ord. No. 6427 , §§1(Exh. A), 2, 4-20-21; Ord. No. 6505 , §1(Exh. A), 11-16-21; Ord. No. 6521 , §§1, 2, 1-18-22; Ord. No. 6537 , §1(Exh. A), 2-15-22)

163.18 Type 2 Short-Term Rentals in Residential Zoning Districts

- (A) *Residential Zoning Districts.* Type 2 short-term rentals may be permitted as a conditional use in the following residential zoning districts:
 - 1) R-A
 - 2) RSF-.5

- 3) RSF-1
- 4) RSF-2
- 5) RSF-4
- 6) RSF-7
- 7) RSF-8
- 8) RSF-18
- 9) RI-12
- 10) RI-U
- 11) RMF-6
- 12) RMF-12
- 13) RMF-18
- 14) RMF-24
- 15) RMF-40
- 16) NC

Short term rentals may be permitted by right or by conditional use in planned zoning districts subject to the zoning regulations enacted by the City Council for each district.

Short-term rentals in non-residential zoning districts, mixed use zoning districts, or other zoning districts not listed above are not required to apply for a conditional use permit.

- (B) *Occupancy.* Maximum of two (2) people per bedroom, plus two (2), for the entire unit when operated as a short-term rental.
- (C) *Parking.* Parking is limited to the maximum number of vehicles as allowed by the underlying zoning district for the residential building on the property.
- (D) Special events are not permitted in a short-term rental. Example of special events include, but are not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars.
- (E) Short-term rental units are allowed in any structure established as a permanent residential dwelling including an accessory dwelling unit. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.
- (F) *Exceptions.* Exceptions to the short-term rental standards, except proposals that would exceed the city-wide density maximum, may be granted by the Planning Commission as a conditional use permit.
- (G) Short-term rentals must comply with all applicable codes under City Code §118.01 and successfully obtain a business license prior to operation.
- (H) Short-term rentals in residential zoning districts may be subject to denial or additional conditions based upon the Planning Commission's findings on the following factors:
 - 1) Adequate parking infrastructure;
 - 2) Adequate adjoining or nearby streets for on-street parking;
 - 3) Frequency or concentration of nearby licensed Type 2 short-term rentals; and
 - 4) Prior zoning or code violations

(Ord. No. 6427 , §§1(Exh. E), 2, 4-20-21; Ord. No. 6505 , §2(Exh. B), 11-16-21; Ord. No. 6537 , §2(Exh. B), 2-15-22)



113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Ordinance: 6672

File Number: 2023-838

ORDINANCE AMENDMENT §118.01 (SHORT TERM RENTAL DENSITY CAP):

AN ORDINANCE TO AMEND §118.01 APPLICABILITY OF THE FAYETTEVILLE CITY CODE TO REDUCE THE CITYWIDE DENSITY CAP FOR SHORT TERM RENTALS TO 475, AND TO DECLARE AN EMERGENCY

WHEREAS, the Development Services Department has issued 392 licenses for Type 2 short term rentals, 341 of which contribute to the current 2% citywide cap because they are not located in zoning districts that permit hotel and motel uses by right; and

WHEREAS, the City Council Ordinance Review Committee has recommended that the citywide density cap for Type 2 short term rentals be reduced from 2% of all dwelling units to a set cap of 475 and recommends that all Type 2 short term rentals be counted toward that cap.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby repeals the introductory paragraph of subsection (E)(16) and subsection (E)(16)(a) in §118.01 **Applicability** of the *Fayetteville City Code* and enacts replacement language as follows:

“(16) Density For Type 2 Short-Term Rentals. A city-wide density cap of 475 dwelling units may be Type 2 rentals. A conditional use permit may not permit:

(a) More Type 2 short-term rentals than what is allowed by the city-wide density cap.”

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby determines that this ordinance should become effective without delay because reducing the number of available short term rental permits in the City of Fayetteville is necessary for the public peace as well as the health and safety of Fayetteville residents. Therefore, the City Council hereby declares an emergency exists such that this ordinance shall become effective immediately upon its passage and approval.

PASSED and APPROVED on July 6, 2023

Approved:

Attest:


Lionel Jordan, Mayor


Kara Paxton, City Clerk Treasurer



161.07 District RSF-4, Residential Single-Family - Four (4) Units Per Acre

(A) *Purpose.* The RSF-4 Residential District is designed to permit and encourage the development of low density detached dwellings in suitable environments, as well as to protect existing development of these types.

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 41	Accessory dwellings
Unit 46	Short-term rentals

(2) *Conditional Uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 9	Two-family dwellings
Unit 12a	Limited business
Unit 24	Home occupations
Unit 36	Wireless communications facilities
Unit 44	Cluster Housing Development

(C) *Density.*

	Single-family dwellings	Two (2) family dwellings
Units per acre	4 or less	7 or less

(D) *Bulk and Area Regulations.*

	Single-family dwellings	Two (2) family dwellings
Lot minimum width	70 feet	80 feet
Lot area minimum	8,000 square feet	12,000 square feet
Land area per dwelling unit	8,000 square feet	6,000 square feet
Hillside Overlay District Lot minimum width	60 feet	70 feet
Hillside Overlay District Lot area minimum	8,000 square feet	12,000 square feet
Land area per dwelling unit	8,000 square feet	6,000 square feet

(E) *Setback Requirements.*

Front	Side	Rear
15 feet	5 feet	15 feet

(F) *Building Height Regulations.*

Building Height Maximum	3 stories
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(G) *Building Area.* On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot. Accessory ground mounted solar energy systems shall not be considered buildings.

(Code 1991, §160.031; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. No. 4858, 4-18-06; Ord. No. 5028, 6-19-07; Ord. No. 5128, 4-15-08; Ord. No. 5224, 3-3-09; Ord. No. 5312, 4-20-10; Ord. No. 5462, 12-6-11; Ord. No. 5921, §1, 11-1-16; Ord. No. 5945, §8, 1-17-17; Ord. No. 6015, §1(Exh. A), 11-21-17; Ord. No. 6245, §2, 10-15-19; Ord. No. 6427, §§1(Exh. C), 2, 4-20-21)

Editor's note(s)—Ord. No. 6625, §1 adopted December 6, 2022, "determines that Section 2 of Ordinance 6427 (Sunset Clause) be amended so that Ordinance 6427 and all amendments to Code Sections ordained or enacted by Ordinance 6427 shall automatically sunset, be repealed and become void on December 31, 2023, unless prior to that date the City Council amends this ordinance to repeal or further amend this sunset, repeal and termination section."

APPLICANT REQUEST LETTER

Conditional use permit items per checklist

1. Payment on line
2. Legal description of property

A part of Lot Numbered Twenty-two (22) in Hotz Addition to the City of Fayetteville, Washington County, Arkansas, as designated upon the revised plat of said Addition on file in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, being more particularly described as follows: Beginning at the Northeast corner of said Lot Twenty-two (22), said point being an existing iron; thence S03°23'19"W 164.51 feet to an existing iron pipe at the Southeast corner of said Lot Twenty-two (22); thence N86°46'32"W 103.16 feet to an existing iron pipe at the Southwest corner of said Lot Twenty-two (22); thence N03°35'20"E along the West line of said Lot Twenty-two (22) 73.24 feet to a set 1/2" iron rebar; thence leaving the West line of said Lot Twenty-two (22) S86°48'05"E 92.91 feet to a set 1/2" rebar; thence N03°23'19"E 91.22 feet to a set 1/2" iron rebar on the North line of said Lot Twenty-two (22); thence S86°49'30"E 10.00 feet to the point of beginning, containing 0.19 acres (8459.8 square feet), more or less, Washington County, Arkansas.

The above described tract being subject to a ten (10) foot Public Utility Easement along the South boundary and a ten (10) foot wide Private Utility Easement along the East boundary.

3. Short Term Rental Type 2 request
 - a. 146 North Palmer Ave building size: 1773 sq ft existing. No proposed increase
 - b. Color pictures of exterior



APPLICANT REQUEST LETTER

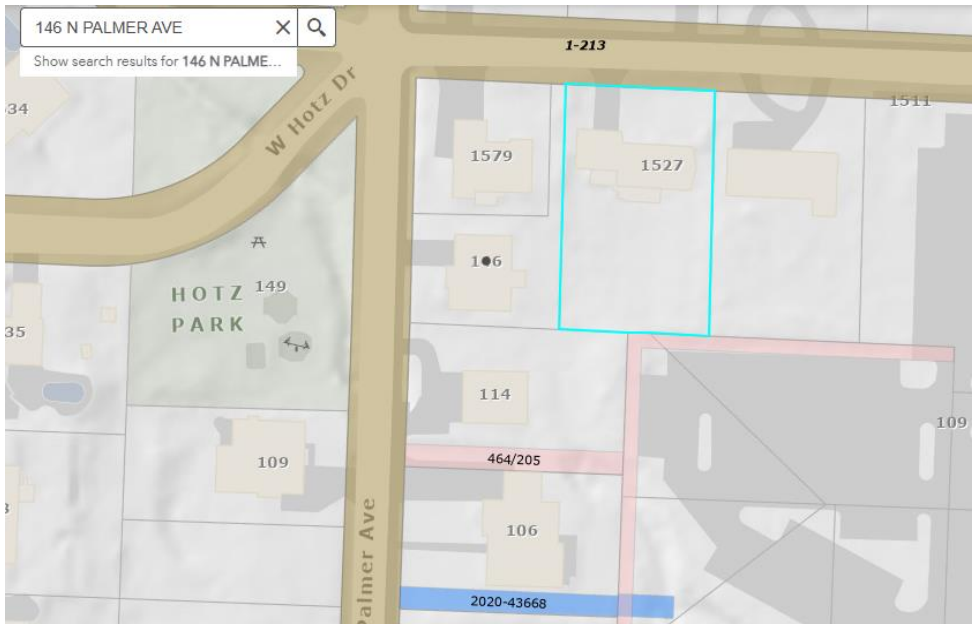


APPLICANT REQUEST LETTER



- c. Parking spaces in Garage: 2 Parking spaces in driveway: 4 (Total of 6 parking spaces)
 - d. Hours of operation, employees, clients not applicable
 - e. Outdoor lighting. Routine lights on side of residential house. 2 at the garage and 1 on the porch. 4 downward directing lights under the soffit. 1 light on back porch
 - f. Noise. No additional noise outside of normal living conditions
 - g. Buffering from adjacent properties. 6 foot privacy fence on the north boundary. Chain link fence on the east boundary with shrubs and bushes. Chain link fence on the south boundary with bushes and shrubs
 - h. Trash to be kept behind the house in trash cans provided by city trash service
 - i. Ingress and egress: Property to be accessed only through the driveway on the west side or streetside. No increased traffic impacts. Hotz Park is directly across the street
 - j. My children have been living in this property for the last 9 years along with friends while attending the UofA. We plan to continue either renting to students or using as a short term rental if we are not able to find students. From my experience, the house can be better maintained, and the outside would be well kept as a short term rental. I will have more access more frequently as a short term rental and can keep up with any disrepair. The impact on neighbors and the neighborhood would be minimal.
4. Site plan: No new plans or changes to existing home. See city map below

APPLICANT REQUEST LETTER



5. Preliminary floor plans. Not applicable. Home already exists with no plans to change

Business Personal ▾ Tax Records ▾ Land Records ▾ Marriage Records ▾

agery Google Location Search Google

Real Estate Parcels

765-06487-001

Show Detailed Report

Parcel ID
765-06487-001

RPID
88759

Owner
DUNHAM FAMILY TRUST

Owner Address
4201 W SENECA RD ROGERS
AR 72758-4082

CAMA Acreage
0

6. Addresses within 200 feet:

105 North Palmer
114 North Palmer
106 North Palmer
50 North Palmer
109 North Palmer
177 North Palmer

APPLICANT REQUEST LETTER

191 North Palmer

1579 Hotz

1542 Hotz

1527 Hotz

1530 Hotz

1523 Hotz

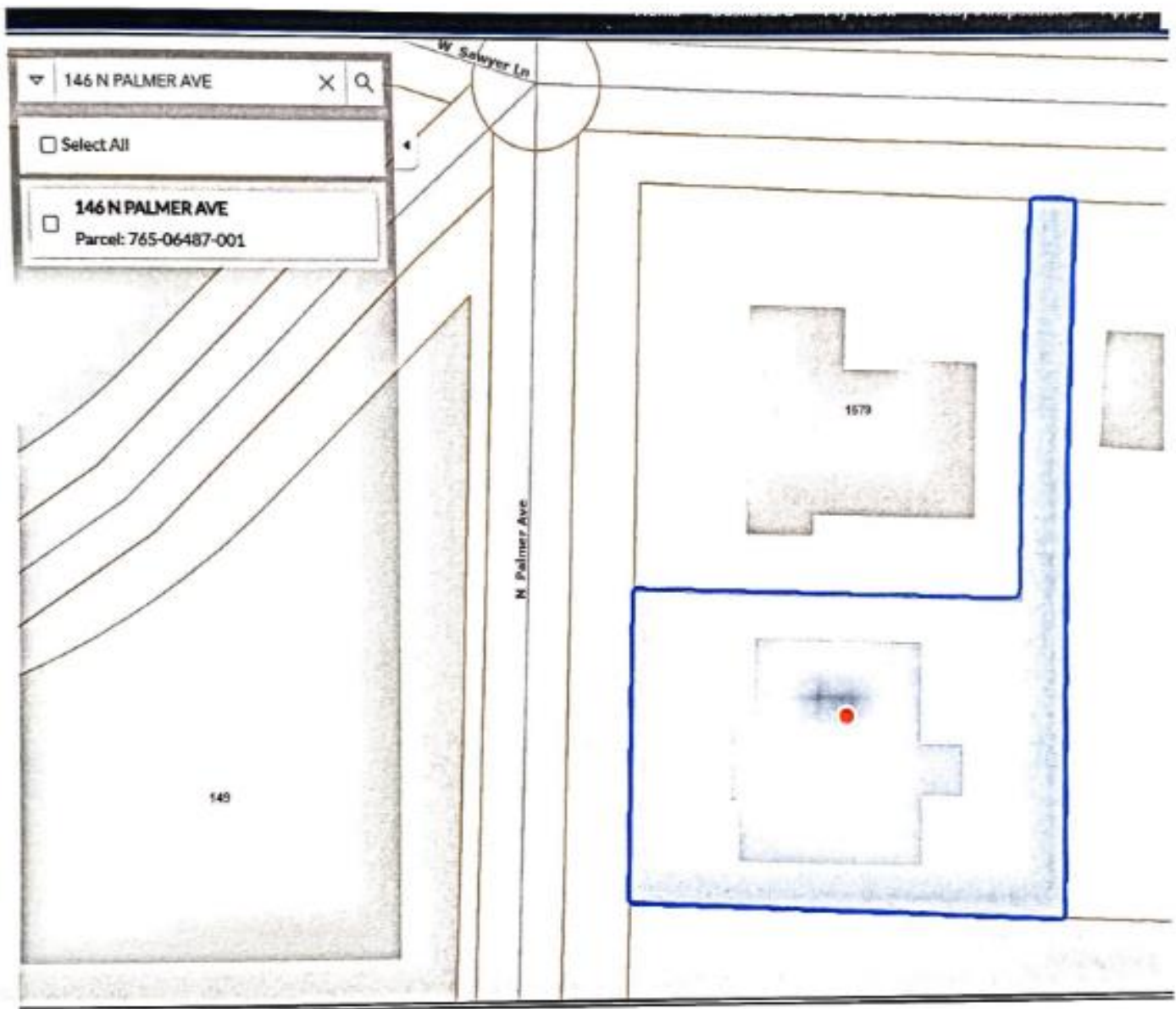
1522 Hotz

7. Signature by Current Owner

Robert D Dunham

8 Above addresses will be notified by mail and a sign placed in the yard according to CUP requirements.

Site Plan 146 N Palmer Ave.

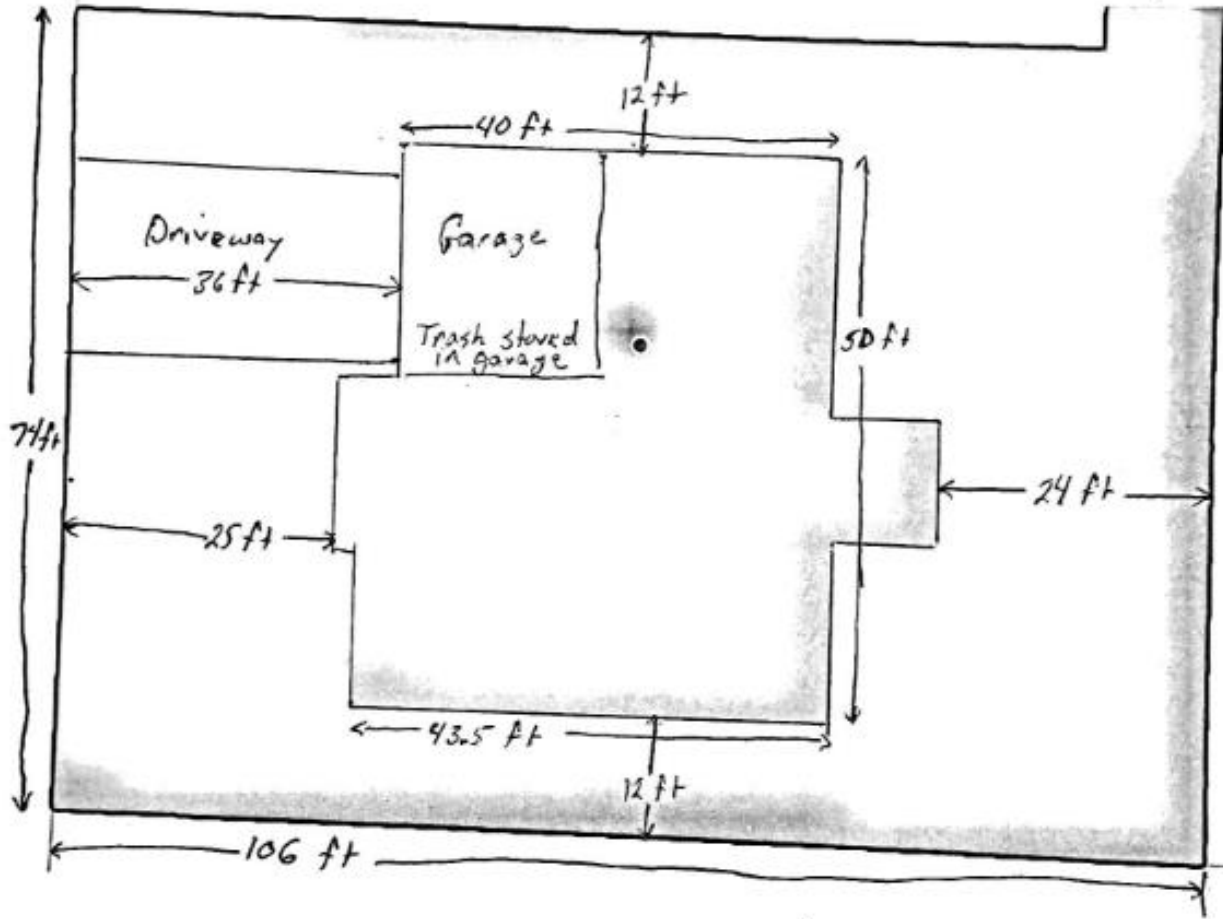


See next page for larger image
with measurements.

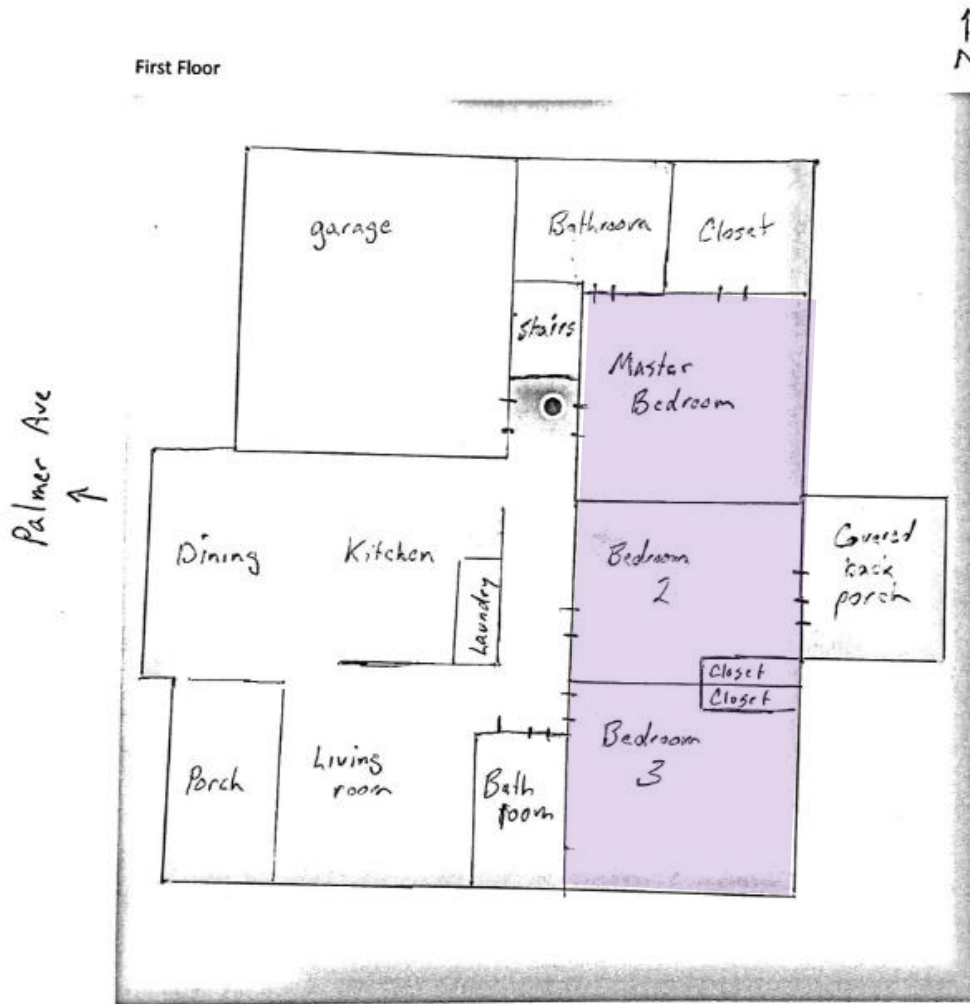
← Palmer Ave. → No street parking

↑
N

→ Easement for sewer line

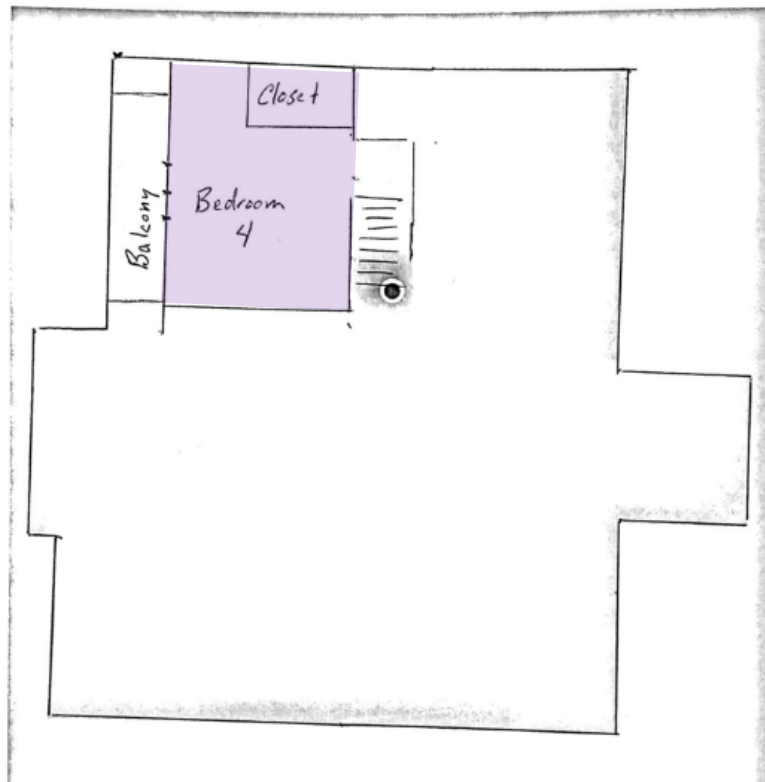


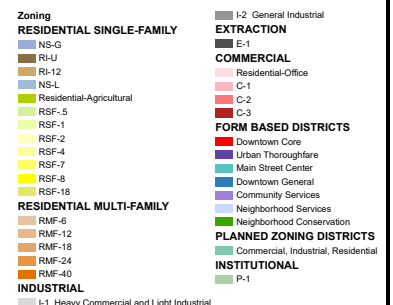
First Floor

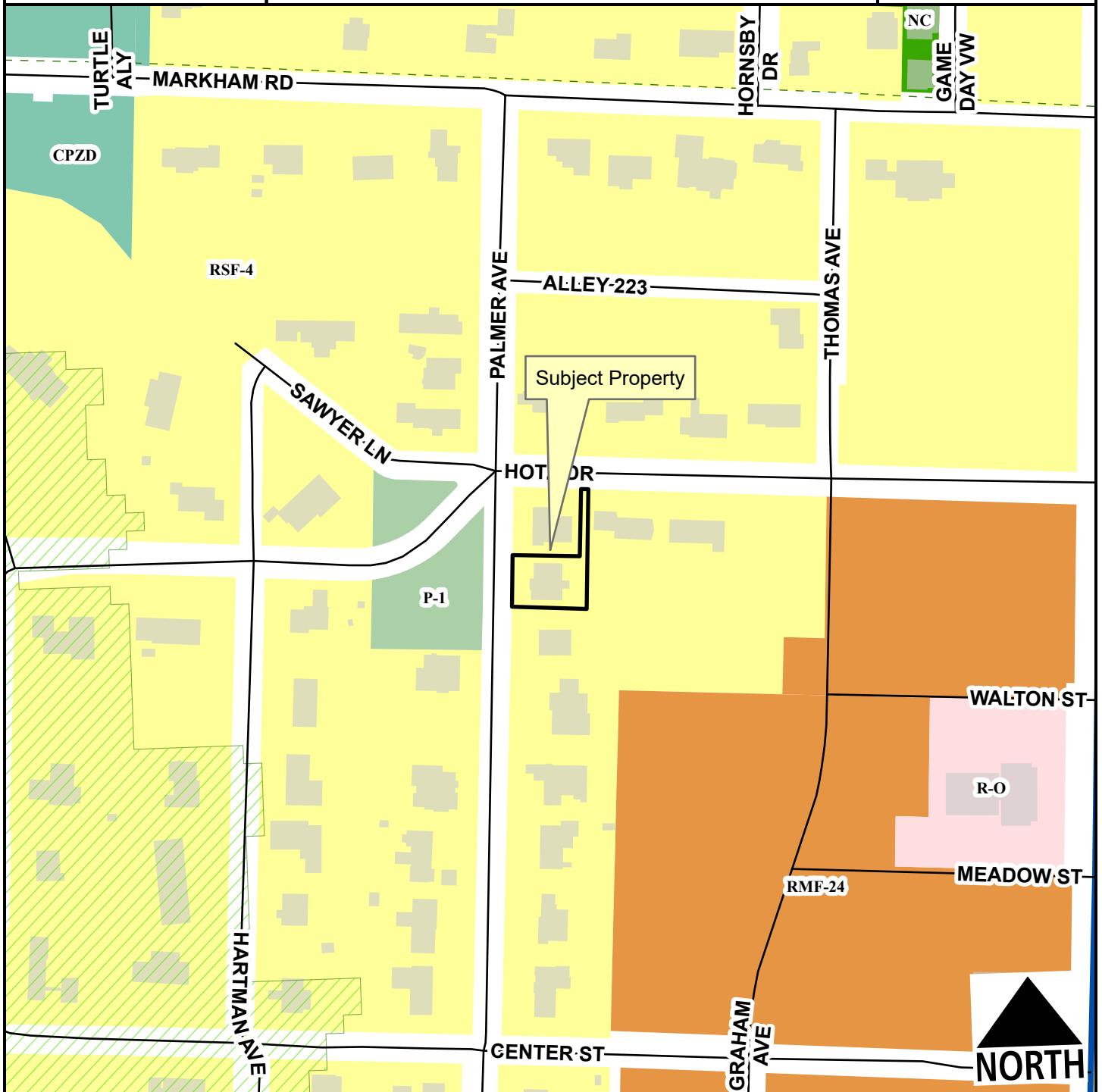


see next page for
2nd floor

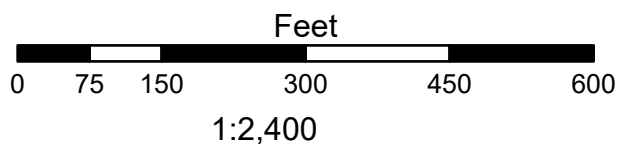
Second Floor:







- Institutional Master Plan
- Regional Link - High Activity
- Unclassified
- Alley
- Residential Link
- Hillside-Hilltop Overlay District
- Planning Area
- Fayetteville City Limits
- Trail (Proposed)



- RSF-4
- RSF-8
- RMF-24
- Residential-Office
- Neighborhood Conservation
- Commercial, Industrial, Residential
- P-1

CUP-2023-0084
<i>Current Land Use</i>

146 N. PALMER AVE



-  Institutional Master Plan
-  Regional Link - High Activity
-  Unclassified
-  Alley
-  Residential Link
-  Trail (Proposed)
-  Planning Area
-  Fayetteville City Limits

FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

Planning Commission
August 14, 2022

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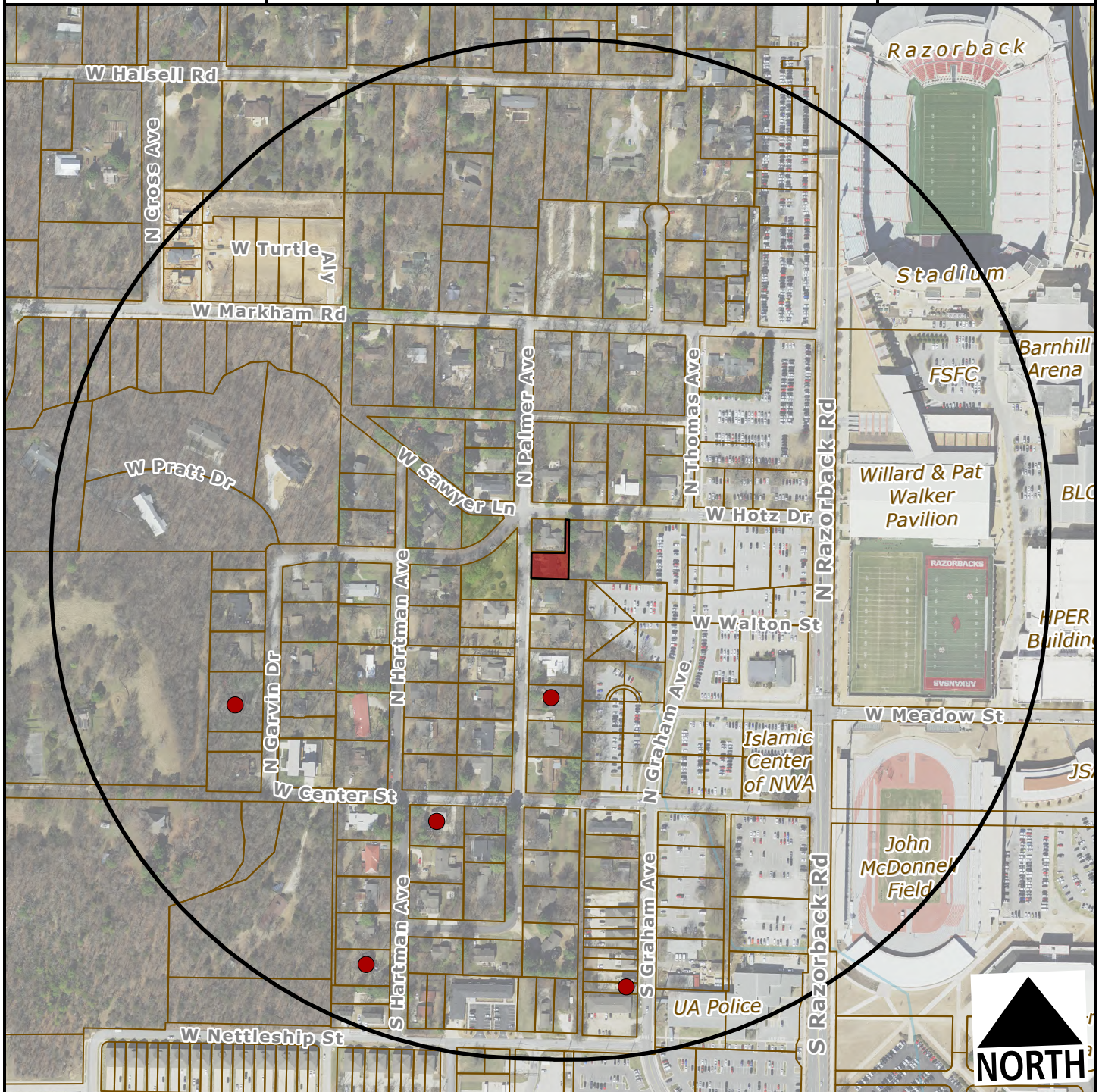
Page 26 of 27

Page 26 of 27

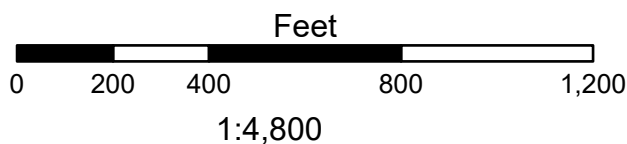
CUP-2023-0084

146 N. PALMER AVE

STRs Within 1/4 Mile



-  Subject Property
-  Short Term Rental, Type 2



Number of STR Licenses

Total 5



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: August 14, 2023

SUBJECT: **CUP-2023-0086: Conditional Use Permit (1780 N. WALNUT AVE/CARTER, 368):** Submitted by HAILEY COLE for property located at 1780 N. WALNUT AVE. The property is zoned RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE and contains approximately 0.30 acres. The request is to use the dwelling as a short-term rental.

RECOMMENDATION:
Staff recommends denial of **CUP-2023-0086**.

RECOMMENDED MOTION:
*"I move to deny **CUP-2023-0086** based on the findings in this report."*

BACKGROUND:
The subject property is in east Fayetteville approximately 1/8 of a mile northeast of N. College Ave and E. Sycamore St. The property is zoned RSF-4, Residential Single-Family, Four Units per Acre and is part of the Hillside/Hilltop Overlay District. The site totals approximately 0.30 acres and is developed with a 1,436 square foot single-family home constructed in 1973. On April 20, 2021, City Council adopted an ordinance to regulate short-term rentals operating within its limits. On December 20, 2022, City Council amended the ordinance to enact new requirements for short-term rentals, and on July 6, 2023, City Council amended the Type 2 short-term rental density cap requirements from 2% city-wide, to 475 total. This report reflects those new changes for consideration. Surrounding land use and zoning are depicted in *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Undeveloped	RSF-4, Residential Single-family, 4 Units per Acre
South	Single-family Residential	NC, Neighborhood Conservation
East	Single-family Residential	RSF-4, Residential Single-family, 4 Units per Acre
West	Misc. Offices / Services	RSF-4, Residential Single-family, 4 Units per Acre, C-2, Thoroughfare Commercial

City Plan 2040 Future Land Use Designation: **Residential Neighborhood**

Proposal: The applicant requests conditional use permit approval to use the property as a Type 2 short-term rental, which are those not occupied by a permanent resident. Type 2 short-term

rentals are subject to density limitations, including a citywide cap of 475 units, and restrictions on the number of units that may be used as a short-term rental in multi-family dwelling complexes.

Public Comment: Staff has not received any public comment regarding this request.

RECOMMENDATION: Staff recommends denial of **CUP-2023-0086**. If approved, staff recommends the following conditions;

Conditions of Approval:

1. **Planning Commission determination of compatibility.** *Staff finds the proposed short-term rental to be incompatible with the neighborhood based on the findings in this report;*
2. Approval of the conditional use permit does not ensure approval of a business license application. The applicant must still be able to comply with all other applicable requirements in the development code.
3. Per §166.20, Expiration of Approved Plans and Permits, a business license must be obtained within 1 year of conditional use permit approval.
4. Per the applicant's submittal, occupancy shall be limited to four guests.
5. Special events including, but not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars are prohibited from occurring in the short-term rental.
6. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.
7. All trash receptacles shall be screened from view of the right-of-way.
8. All outdoor lighting shall meet requirements as outlined in §176, Outdoor Lighting.
9. Any signage shall meet the requirements as outlined in §174, Signage.
10. Per 120.02(A), the owners of only short-term rentals shall be required to designate and register their Landlord's Representative into the Landlord's Representative Registry.
11. The driveway shall have posted signage or striping indicating that vehicles shall exit via "Right-Only" and shall notify guests that large vehicles may have difficulty turning around on the property.
12. Driveway parking shall be limited to a single vehicle.

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>August 14, 2023</u>	☐ Tabled	☐ Approved	☐ Denied
Motion:			
Second:			
Vote:			

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

1. Hear and decide only such special exemptions as it is specifically authorized to pass on by the terms of this chapter.
2. Decide such questions as are involved in determining whether a conditional use should be granted; and,
3. Grant a conditional use with such conditions and safeguards as are appropriate under this chapter; or
4. Deny a conditional use when not in harmony with the purpose and intent of this chapter.

C. A conditional use shall not be granted by the Planning Commission unless and until:

1. A written application for a conditional use is submitted indicating the section of this chapter under which the conditional use is sought and stating the grounds on which it is requested.

Finding: **The applicant has submitted a written application requesting a conditional use permit for a Type 2 short-term rental in the RSF-4 zoning district.**

2. The applicant shall pay a filing fee as required under Chapter 159 to cover the cost of expenses incurred in connection with processing such application.

Finding: **The applicant has paid the required filing fee.**

3. The Planning Commission shall make the following written findings before a conditional use shall be issued:

(a.) That it is empowered under the section of this chapter described in the application to grant the conditional use; and

Finding: The Planning Commission is empowered under Unified Development Code §118.01(E)(2) to grant the requested conditional use permit.

(b.) That the granting of the conditional use will not adversely affect the public interest.

Finding: Staff finds that granting the requested conditional use is unlikely to negatively affect the public interest, given the applicable business license requirements including a required building safety inspection, and applicable density caps on Type 2 short-term rentals.

(c.) The Planning Commission shall certify:

(1.) Compliance with the specific rules governing individual conditional uses; and

Finding: There are specific rules governing Short-Term Rentals, as follows:

§163.18 - SHORT-TERM RENTALS

A. General Standards.

(1) *Residential Zoning Districts.* Residential Zoning Districts. Type 2 short-term rentals may be permitted as a conditional use in the following residential zoning districts: R-A, RSF-.5, RSF-1, RSF-2, RSF-4, RSF-7, RSF-8, RSF-18, RI-12, RI-U, RMF-6, RMF-12, RMF-18, RMF-24, RMF-40, NC. Short term rentals may be permitted by right or by conditional use in planned zoning districts subject to the zoning regulations enacted by the City Council for each district. Short-term rentals in non-residential zoning districts, mixed use zoning districts, or other zoning districts not listed above are not required to apply for a conditional use permit.

Finding: The request is to operate a Short-Term Rental, Use Unit 46, in RSF-4 zoning, which requires a conditional use permit.

(2) *Occupancy.* Maximum of two (2) people per bedroom, plus two (2), for the entire unit when operated as a short-term rental.

Finding: Occupancy is limited as described in UDC §163.18(A)(3). Occupancy limitations are confirmed by the applicant during licensing. In line with the applicant's letter, staff recommends limiting occupancy to four guests.

(3) *Parking.* Parking is limited to the maximum number of vehicles as allowed by the underlying zoning district for the residential building on the property.

Finding: Staff recommends parking is limited as described in UDC §163.18(A)(4). Parking for single-family dwellings is required to be provided at a rate of two spaces per unit, and up to four vehicles are permitted to be parked outdoors on the property. According to the applicant, two garage parking spaces are available with an additional two spaces available in the driveway. Staff notes that due to the slopes of the site and the tight dimensions of the driveway, larger vehicles may have difficulty turning to exit the property in a forward

manner. If approved, staff recommends a condition be added that driveway parking be limited to one vehicle.

(4) Special events are not permitted in a short-term rental. Example of special events include, but are not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars.

Finding: The application letter suggests the property will comply with the City's regulations for a short-term rental. As a condition of approval, staff recommends a prohibition on special events.

(5) Short-term rental units are allowed in any structure established as a permanent residential dwelling including an accessory dwelling unit. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

Finding: The application is for use of the property at 1780 N. Walnut Avenue. Staff recommends a condition confirming that no recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

(6) Exceptions. Exceptions to the short-term rental standards, except proposals that would exceed the city-wide density maximum, may be granted by the Planning Commission as a conditional use permit.

Finding: Type 2 short-term rentals are subject to a citywide density cap at 475 business licenses. As of August 7, 2023, the City had issued 392 Type 2 short-term rental licenses. Granting a CUP for this location would entitle the applicant to apply for a business license, but does not guarantee its approval. No exceptions are being requested to density requirements.

(7) Short-term rentals must comply with all applicable codes under City Code §118.01 and successfully obtain a business license prior to operation.

Finding: This short-term rental would be subject to all codes in Business Regulations §118.01 that apply to Type 2 short-term rentals in residential zoning districts. Applicable business licensing requirements will be reviewed by staff and confirmed by the applicant at the time of licensing.

(8) Short-term rentals in residential zoning districts may be subject to denial or additional conditions based upon the Planning Commission's findings on the following factors:

- 1) Adequate parking infrastructure;
- 2) Adequate adjoining or nearby streets for on-street parking;
- 3) Frequency or concentration of nearby licensed Type 2 short-term rentals; and
- 4) Prior zoning or code violations.

Finding: According to the applicant, two garage parking spaces are available with an additional two spaces available in the driveway. Staff notes that due to the slopes of the site and the tight dimensions of the driveway, larger vehicles may have difficulty turning to exit the property in a forward manner. There is no on-street parking available as the property fronts N. Walnut Avenue to E. Ash Street along a steep, blind corner. City records indicate that three (3)

other units within a quarter-mile radius of the subject property have an active Type 2 short-term rental business license. One zoning and code violation was reported in 2022 for overgrown grass.

§163.02, AUTHORITY; CONDITIONS; PROCEDURES. (continued)

(2.) That satisfactory provisions and arrangements have been made concerning the following, where applicable:

(a.) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe;

Finding: Staff finds the proposal may adversely affect traffic flows. The driveway is located along a sharp 90-degree turn from N. Walnut Avenue to E. Ash Street with limited visibility due to the slope of the road. This area has a posted recommended speed of 15 mph. There have been five vehicle crashes at this location between 2017 and 2021, one with a non-incapacitating injury. While no bike/pedestrian crashes have been reported, there is an on-street bike lane at this location on the side of the proposed short-term rental as well. Additionally, the driveway into the property exceeds a 10% slope and has a steep transition off the road. Slopes are generally steep on the property, and there is a substantial retaining wall along the western property border. As the driveway outside the garage is only 20 feet deep, longer vehicles may have difficulty turning in order to exit the property in a forward manner.

(b.) Off-street parking and loading areas where required, with particular attention to ingress and egress, economic, noise, glare, or odor effects of the special exception on adjoining properties and properties generally in the district;

Finding: According to the applicant, two garage parking spaces are available with an additional two spaces available in the driveway. As noted in finding 3: "Parking," staff recommends a condition be added that driveway parking be limited to one vehicle due to site constraints.

(c.) Refuse and service areas, with particular reference to ingress and egress, and off-street parking and loading,

Finding: The applicant proposes typical residential trash cart service rather than dumpster service. Staff recommends storage of the containers should be screened from public view when not at the curb for residential pick-up.

(d.) Utilities, with reference to locations, availability, and compatibility;

Finding: Utilities are currently available to the site, and the use as a short-term rental is not anticipated to impact the provision of utilities.

- (e.) Screening and buffering with reference to type, dimensions, and character;

Finding: **Staff recommends that residential carts be screened so that they are not visible from the public right-of-way.**

- (f.) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;

Finding: **Any proposed signage will be subject to Unified Development Code section 174 – Signs, and all the regulations therein.**

- (g.) Required yards and other open space; and

Finding: **Based on the applicant's submittal, the structure is meeting relevant setbacks.**

- (h.) General compatibility with adjacent properties and other property in the district.

Finding: **Staff finds the use to be incompatible with the surrounding properties. The corner where the driveway exits is a hazardous traffic area and staff finds that encouraging regular visitors to this property who are unfamiliar to the area could exacerbate an unsafe traffic condition. While this area could support additional short-term rentals as the density here is low, staff finds this location to be inappropriate given the blind corner, steep slopes, and poor maneuverability on site.**

- (i.) General compatibility with the goals and intent of the city's adopted land-use, transportation, and other strategic plans.

Finding: **Staff finds the proposed use to be somewhat incompatible with the City's adopted land use, transportation, and other strategic plans since short-term rentals do not clearly support any of the goals identified in those plans. However, there are safeguards in place that limit how short-term rentals operate to ensure that the City can still meet those goals, including a citywide cap of 475 units and restrictions on the number of units that may be used as a short-term rental in multi-family dwelling complexes.**

BUDGET/STAFF IMPACT:

None

Attachments:

- Business Regulations
 - §118.01 Applicability
- Unified Development Code
 - §163.18 Type 2 Short-Term Rentals in Residential Zoning Districts
 - Excerpt of Ordinance 6672
 - §161.07 District RSF-4, Residential Single-Family – Four (4) Units Per Acre
- Applicant Request Letter
- Site Plan
- Building Elevations
- Interior Photos
- Building Floor Plan
- Traffic Accident Records
- One Mile Map
- Close-Up Map
- Current Land Use Map
- STRs within ¼ Mile Map

118.01 Applicability

- (E) *Short-Term Rentals.* A residential dwelling unit, portion of a dwelling unit, or bedroom within a residential dwelling unit, leased and/or rented to a guest(s), for a period of less than thirty consecutive (30) days.
- (1) *Short-Term Rental, Type 1.* A short-term rental where the principal use of the property remains as a full-time residence. The occupants or owner rent their primary residence as a short-term rental. A copy of the Homestead Tax Credit or long-term lease agreement for the subject property is required to be classified as a Type 1 rental. The occupant or owner must occupy the residence for nine (9) months of the year. Accessory dwelling units (ADUs) as defined in Unified Development Code Chapter 151 shall be considered a Type 1 short-term rental.
 - (2) *Short-Term Rental, Type 2.* A short-term rental that is not occupied by a permanent resident. The owner lists this property full-time as a short-term rental and has no intention of having permanent residents living in the property. A conditional use permit is required for a Type 2 short-term rental in a residential zoning district prior to the city issuing a business license.
 - (3) *License Required.* No dwelling unit in the city shall be used as a short-term rental unless:
 - (a) The owner of the dwelling unit or operator of the short-term rental possess a valid and current business license for the dwelling unit, and fully complies with all legal requirements and duties imposed herein with respect to each and every short-term rental; and
 - (b) The owner has designated an agent, where said agent fully complies with all legal requirements and duties imposed herein with respect to every short-term rental. The owner may serve as their own agent.
 - (c) The owner of the dwelling unit or operator of the short-term rental provides proof of a valid and current homeowners insurance rider policy which fully covers each unit when operated as short-term rental unit.
 - (4) A separate business license shall be required for each dwelling unit used as a short-term rental.
 - (5) Any change in ownership requires a new or amended business license.
 - (6) If any required contact information changes for the associated business license, the person to whom the license was issued shall immediately notify the Development Services Department in writing.
 - (7) *License Application.* The application for a business license shall include at minimum, the following information from applicants:
 - (a) The property owner's information including legal name, mailing address, immediate contact phone number, and immediate contact E-mail address.
 - (b) Information for the dwelling unit subject to the application, inclusive of the physical street address assigned by the city.
 - (c) The type and total number of dwelling units located on the lot of record containing the dwelling unit subject to the application.
 - (d) If the owner is not their own agent, the owner designated agent's information including legal name, mailing address, immediate contact phone number and immediate contact E-mail address.
 - (e) Documentation of approval of a life safety and egress inspection by the City Building Safety Division for the dwelling unit subject to the application.
 - (f) Proof of application for remittance of hotel, motel and restaurant tax to the City of Fayetteville, and verification that all sales, use, and hotel, motel and restaurant taxes are current.
 - (g) Any additional data as deemed necessary or desirable for permit approval by the Development Services Director.
 - (8) *License Renewals.* Business licenses for short-term rentals shall be renewed in accordance with Chapter 118 of the Business Regulations (Business Registry and Licenses).
 - (11) *Legal Duties of License Holders.* An owner possessing a short-term rental license shall comply at all times with the following requirements:
 - (a) *Occupancy.* Short-term rentals shall be subject to, and may not exceed, the occupancy limits approved with the business license.
 - (b) *Advertisements.* A short-term rental shall not be advertised if it violates occupancy, density, safety, and any of the other provisions of the Fayetteville Code. No short-term rental unit shall be advertised prior to having obtained a business license and the business license number shall be included in the advertisement listing.
 - (c) *Information and Posting.* Business licensees shall provide to guests and post conspicuously in the common area of the short-term rental unit the city phone number to report a safety complaint.
 - (10) *Owner or Agent Accessibility.* The property owner shall ensure that they or a designated agent are available at all times during guest occupancy, including nights and weekends, in order to facilitate compliance with this section. For the purposes of these regulations, 'availability' means that the owner or



113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Ordinance: 6672

File Number: 2023-838

ORDINANCE AMENDMENT §118.01 (SHORT TERM RENTAL DENSITY CAP):

AN ORDINANCE TO AMEND §118.01 APPLICABILITY OF THE FAYETTEVILLE CITY CODE TO REDUCE THE CITYWIDE DENSITY CAP FOR SHORT TERM RENTALS TO 475, AND TO DECLARE AN EMERGENCY

WHEREAS, the Development Services Department has issued 392 licenses for Type 2 short term rentals, 341 of which contribute to the current 2% citywide cap because they are not located in zoning districts that permit hotel and motel uses by right; and

WHEREAS, the City Council Ordinance Review Committee has recommended that the citywide density cap for Type 2 short term rentals be reduced from 2% of all dwelling units to a set cap of 475 and recommends that all Type 2 short term rentals be counted toward that cap.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby repeals the introductory paragraph of subsection (E)(16) and subsection (E)(16)(a) in §118.01 **Applicability** of the *Fayetteville City Code* and enacts replacement language as follows:

“(16) Density For Type 2 Short-Term Rentals. A city-wide density cap of 475 dwelling units may be Type 2 rentals. A conditional use permit may not permit:

(a) More Type 2 short-term rentals than what is allowed by the city-wide density cap.”

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby determines that this ordinance should become effective without delay because reducing the number of available short term rental permits in the City of Fayetteville is necessary for the public peace as well as the health and safety of Fayetteville residents. Therefore, the City Council hereby declares an emergency exists such that this ordinance shall become effective immediately upon its passage and approval.

PASSED and APPROVED on July 6, 2023

Approved:

Attest:


Lionel Jordan, Mayor


Kara Paxton, City Clerk Treasurer



agent is accessible by telephone, and, able to be physically present at the short-term rental within three (3) hours of being contacted.

- (11) *Guest Records.* The owner shall maintain summary guest registration records, which shall contain the actual dates of occupancy, total number of guests per party per stay, and the rate(s) charged, but shall not contain any personally identifiable information about guests. Such records shall be maintained for three (3) years and shall be provided to the City upon request.
- (12) *Health and Safety.* The owner shall ensure that each dwelling unit governed by this section complies with the applicable provisions of the Unified Development Code Chapter 173, Building Regulations.
- (13) *Criminal Activity.* The owner shall timely report any known or reasonably suspected criminal activity by a guest to the Fayetteville Police Department within twelve (12) hours maximum.
- (14) *Taxes and Fees.* Except for those instances in which a hosting platform bears the responsibility for collecting and remitting taxes and fees applicable to short-term rentals, the property owner shall timely remit in full Fayetteville Hotel, Motel and Restaurant tax and other applicable local, state, and federal taxes and city fees owed in connection with any short-term rental. The failure of a hosting platform to collect and remit taxes and fees shall not relieve an owner of the obligation to pay taxes and fees owed pursuant to this section.
- (15) *Authorization to Occupy, Use, and Operate.* Authorization to operate a short-term rental may be granted by the Development Services Director through the issuance of a City of Fayetteville Business Registry and License (Business License).
- (16) *Density For Type 2 Short-Term Rentals.* A city-wide density cap of 2% of all dwelling units in the Fayetteville city limits may be utilized as Type 2 rentals. Total dwelling units are determined from current United States Census Bureau and/or American Community Survey numbers, whichever number is higher. A conditional use permit may not permit:
 - (a) More Type 2 short-term rentals than what is allowed by the city-wide density cap. Type 2 short-term rentals in commercial and mixed-use zoning districts where hotel/motels are permitted by right shall not contribute to the city-wide density cap.
 - (b) More than 10% or a single unit whichever is greater; of total dwelling units as Type 2 rentals within a multi-family dwelling complex.
 - (c) Individual 2-, 3- and 4-family buildings that are owned by the same person or entity and are not a part of a multi-family complex shall have no more than one (1) Type 2 short-term rental unit per building complex.
 - (d) Where attached residential units are held separately through condominium association, horizontal property regime, fee simple, or similar ownership structure, no cap shall be applied to buildings with attached residential dwellings. Structures of attached residential dwellings where applicants seek more than 10% of total units for licensing as Type 2 rentals shall be evaluated by the Building Safety Director and/or Fire Marshal for adequate fire protection as defined by the adopted Arkansas Fire Prevention Code. Where inadequate fire protection is identified, improvements may be required prior to issuance of a business license.
- (17) *Suspension and Revocation.* If the Development Services Director has reason to believe that any of the grounds specified in §118.03(A) of the Fayetteville Code exist, or that any rental unit was rented for less than one (1) full night, or to more than one (1) part of guests for the same period of time, or otherwise failed to comply with all terms and conditions of this section, the Development Services Director may suspend or revoke the short-term rental's business license pursuant to the procedures detailed in §118.03 and in §118.04 of the Fayetteville Code.
- (18) Short-term rentals must comply with all applicable codes under Unified Development Code §163.18 and § 164.26 successfully obtain a business license prior to operation.

(Ord. No. 6427 , §§1(Exh. A), 2, 4-20-21; Ord. No. 6505 , §1(Exh. A), 11-16-21; Ord. No. 6521 , §§1, 2, 1-18-22; Ord. No. 6537 , §1(Exh. A), 2-15-22)

163.18 Type 2 Short-Term Rentals in Residential Zoning Districts

- (A) *Residential Zoning Districts.* Type 2 short-term rentals may be permitted as a conditional use in the following residential zoning districts:

- 1) R-A
- 2) RSF-.5
- 3) RSF-1
- 4) RSF-2
- 5) RSF-4
- 6) RSF-7
- 7) RSF-8
- 8) RSF-18
- 9) RI-12
- 10) RI-U
- 11) RMF-6
- 12) RMF-12
- 13) RMF-18
- 14) RMF-24
- 15) RMF-40
- 16) NC

Short term rentals may be permitted by right or by conditional use in planned zoning districts subject to the zoning regulations enacted by the City Council for each district.

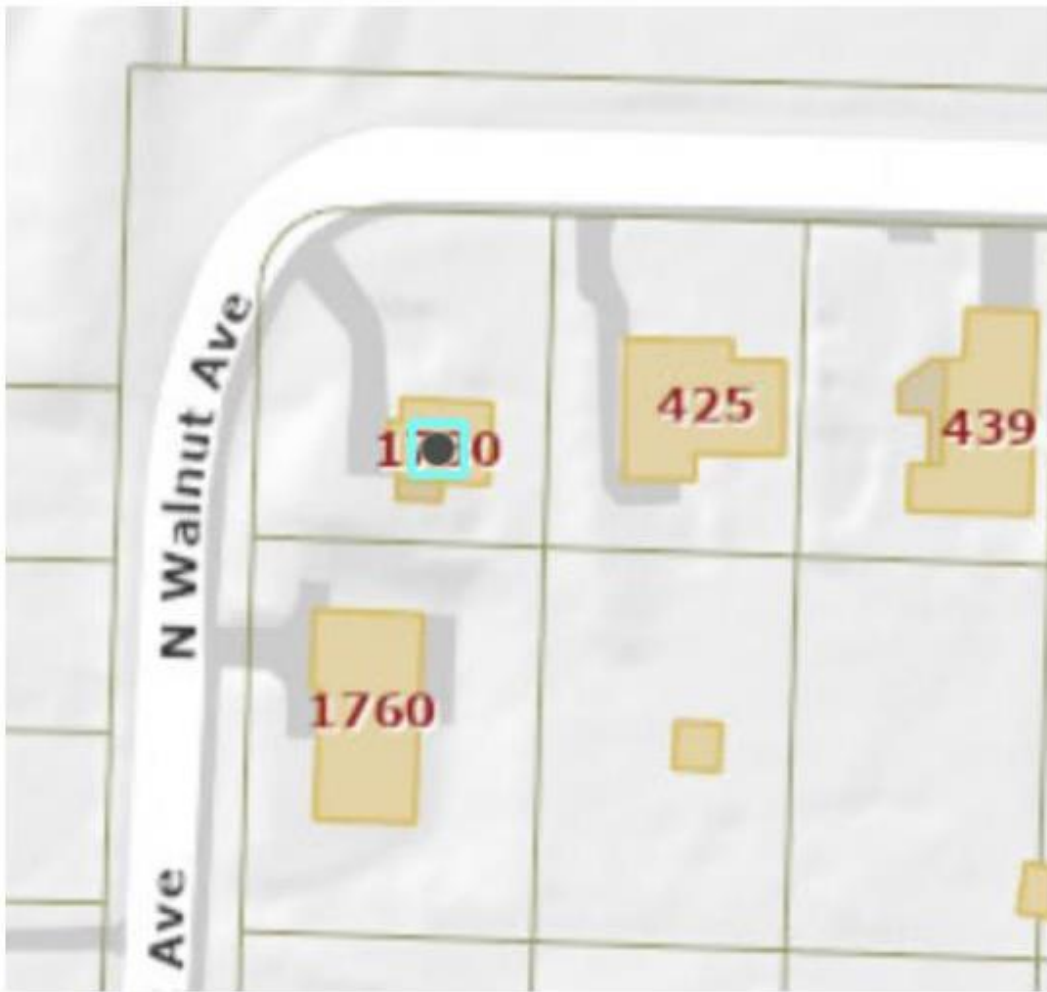
Short-term rentals in non-residential zoning districts, mixed use zoning districts, or other zoning districts not listed above are not required to apply for a conditional use permit.

- (B) *Occupancy.* Maximum of two (2) people per bedroom, plus two (2), for the entire unit when operated as a short-term rental.
- (C) *Parking.* Parking is limited to the maximum number of vehicles as allowed by the underlying zoning district for the residential building on the property.
- (D) Special events are not permitted in a short-term rental. Example of special events include, but are not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars.
- (E) Short-term rental units are allowed in any structure established as a permanent residential dwelling including an accessory dwelling unit. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.
- (F) *Exceptions.* Exceptions to the short-term rental standards, except proposals that would exceed the city-wide density maximum, may be granted by the Planning Commission as a conditional use permit.
- (G) Short-term rentals must comply with all applicable codes under City Code §118.01 and successfully obtain a business license prior to operation.
- (H) Short-term rentals in residential zoning districts may be subject to denial or additional conditions based upon the Planning Commission's findings on the following factors:
- 1) Adequate parking infrastructure;
 - 2) Adequate adjoining or nearby streets for on-street parking;
 - 3) Frequency or concentration of nearby licensed Type 2 short-term rentals; and
 - 4) Prior zoning or code violations

(Ord. No. 6427 , §§1(Exh. E), 2, 4-20-21; Ord. No. 6505 , §2(Exh. B), 11-16-21; Ord. No. 6537 , §2(Exh. B), 2-15-22)

Conditional Use Permit
City of Fayetteville, Arkansas

1. Payment made in full.
2. Residential Single Family, .29 Acres. 1780 N Walnut Ave Fayetteville AR 72703
3. We are applying for a conditional use permit from the City of Fayetteville for a property that we purchased in order to obtain a short term rental Type 2 permit. We will not be residing in the residence. The property will be used for a nightly rental.
 - a. The home is 1,436 Sq Ft
 - b. The home is 2 floors. On the bottom floor is the kitchen, living space, one bedroom and a bathroom. On the second floor is a half bathroom, full bathroom and primary bedroom.
 - c. For the home there are two parking spaces off the main driveway as well as 2 spaces in the driveway.
 - d. The home will not have operating hours or employees. It will be in use whenever it is being rented. Based on the two bedrooms we will plan to accept 4 guests. There will be a cleaning team that comes in regularly to clean and inspect the house as well as a landscaping team. I, the applicant, live 13 miles away and will be inspecting and caring for the home regularly in between guests.
 - e. Outdoor Lighting - There is an exterior light at the front of the door, flood light on the left side of the home and an additional exterior light off the garage.
 - f. The property will be used for short stays of 2-4 people so the noise level should be minimal. There is one television in the unit. Listed in the rules for the home is an explicitly "No Partying Rule" to deter any large gatherings.
 - g. The houses located to the side and back are separated by dense trees and bush.
 - h. Trash service is paid through the city. The trash and recycling bins are store on the right side of the garage and are dropped off at the base of the driveway.
 - i. This home does not add additional traffic on the road because this home has already been used as a residential property.
 - j. The use of the property as a nightly rental is common for the area but should not impact neighboring homes. The applicant will gladly remain in close communication with neighbors to uphold this.
4. The site plan drawn to scale of the property and the Survey will be attached at the end of this document. The property is zoned Residential Single-family.
5. Floor plan
6. A copy of the county parcel map from the Washington County's Assessor's office website will be attached at the end of this document.
7. Consent of ownership form is attached as separate document.



SURVEY DESCRIPTION:

LOT 1, MCCLELLAND ADDITION, TO THE CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, AS SHOWN ON PLAT RECORD "3" AT PAGES 335 AND 351.

BUYER: THOMAS MATTHEW CARTER

ADDRESS: 1780 N. WALNUT AVE,
FAYETTEVILLE, AR 72703

ZONED: RSF-4

SETBACKS:
FRONT...15 FEET
SIDE...5 FEET
REAR...15 FEET

GIS Approved
07/07/2023

N. WALNUT AVE
(ASPHALT, 50' R/W)



PLAT NOTES:

EXCEPT AS SPECIFICALLY STATED OR SHOWN ON THIS PLAT, THIS SURVEY DOES NOT PURPORT TO REFLECT ANY OF THE FOLLOWING WHICH MAY BE APPLICABLE TO THE SUBJECT REAL ESTATE:

EASEMENTS, OTHER THAN POSSIBLE EASEMENTS WHICH WERE VISIBLE AT THE TIME OF MAKING OF THIS SURVEY; RESTRICTIVE COVENANTS; SUBDIVISION RESTRICTIONS OR OTHER LAND USE REGULATIONS; AND ANY OTHER FACTS WHICH AN ACCURATE TITLE SEARCH MAY DISCLOSE.

THIS SURVEY IS VALID ONLY IF THE DRAWING INCLUDED THE SEAL AND SIGNATURE OF THE SURVEYOR.

THIS SURVEY MEETS OR EXCEEDS THE CURRENT "ARKANSAS MINIMUM STANDARDS FOR PROPERTY BOUNDARY SURVEYS AND PLATS".

DECLARATION IS MADE TO THE ORIGINAL PURCHASER OF THE SURVEY: IT IS NOT TRANSFERABLE TO ADDITIONAL INSTITUTIONS OR SUBSEQUENT OWNERS.

SUBSURFACE AND ENVIRONMENTAL CONDITIONS WERE NOT EXAMINED OR CONSIDERED AS A PART OF THIS SURVEY.

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	30.00'	46.52'	42.00'	N46°34'03"E	088°51'10"



LEGEND

- ⊠ AC UNIT
- + COMPUTED POINT
- ⊙ ELECTRIC METER
- ⊙ EXISTING IRON PIPE
- ⊙ EXISTING IRON REBAR
- ⊙ FIRE HYDRANT
- ⊙ GAS METER
- ⊙ POWER POLE
- ⊙ SANITARY SEWER CLEANOUT
- ⊙ SANITARY SEWER MANHOLE
- ⊙ TELEPHONE PEDESTAL
- ⊙ WATER METER
- ⊙ WATER VALVE
- BUILDING LINE
- BUILDING SETBACK LINE
- CENTERLINE ROAD
- CHAIN-LINKED FENCE
- EASEMENT LINE
- OVERHEAD ELECTRIC LINE
- PROPERTY LINE
- WROUGHT IRON FENCE

Alan Reid & Associates

118 South College Avenue
Fayetteville, Arkansas 72701
(479) 444-8784

DATE: 05/19/2023

SCALE: 1" = 30'

REVISED:

DRAWN BY: DF

PROJECT NO.

23116

LOT SURVEY

Planning Commission

August 14, 2023

CUP-2023-0086 (CARP) Page 342 of 504

Page 15 of 25

Image Attachments

3.b Elevations of all exterior sides



3.c Parking description



3.i Ingress and egress of the property



4. Site plan drawn to scale

Drive way and side gravel drive are the only permitted parking spots. No street parking.



3.g Screening or buffering from adjacent properties



3. h Trash

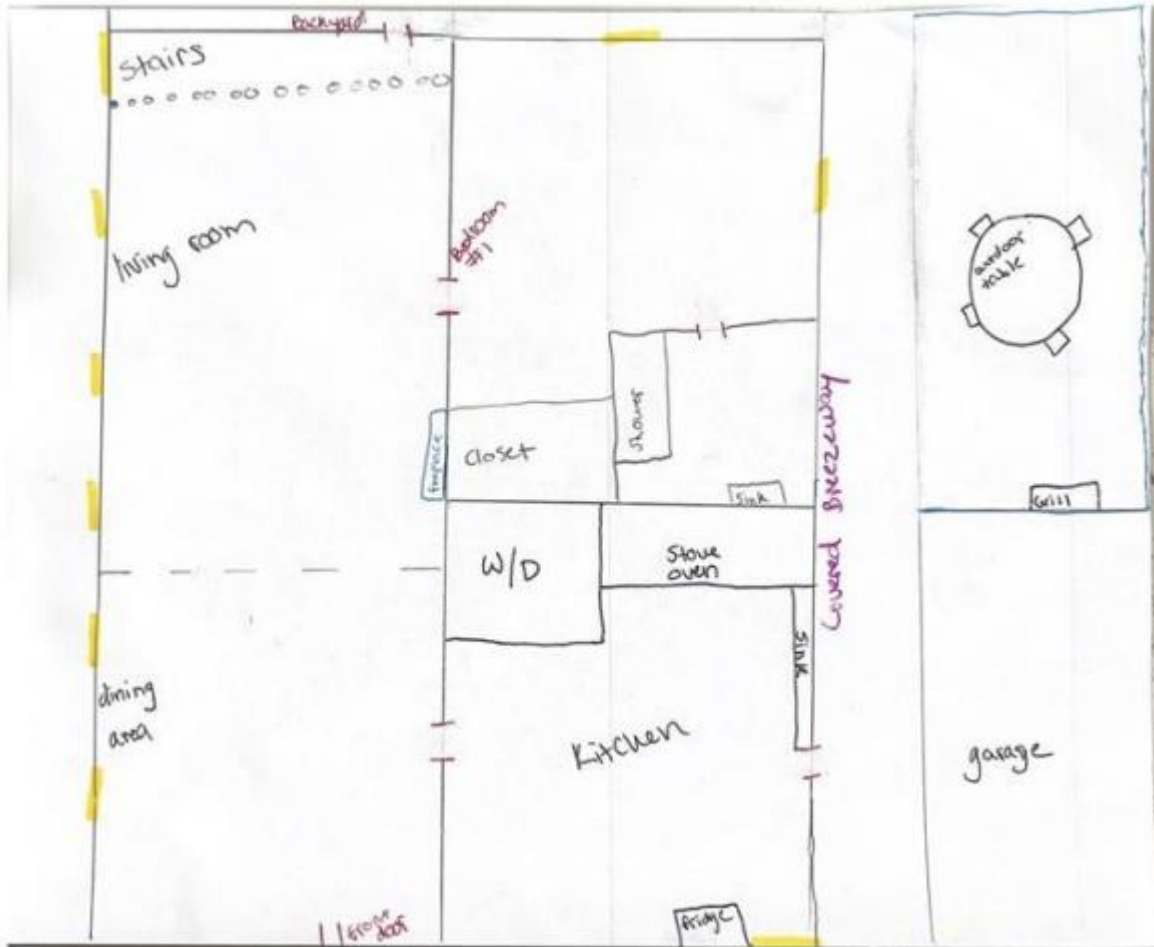
Cans are stored on right side of house and on trash day will be taken to the corner of driveway off the street.

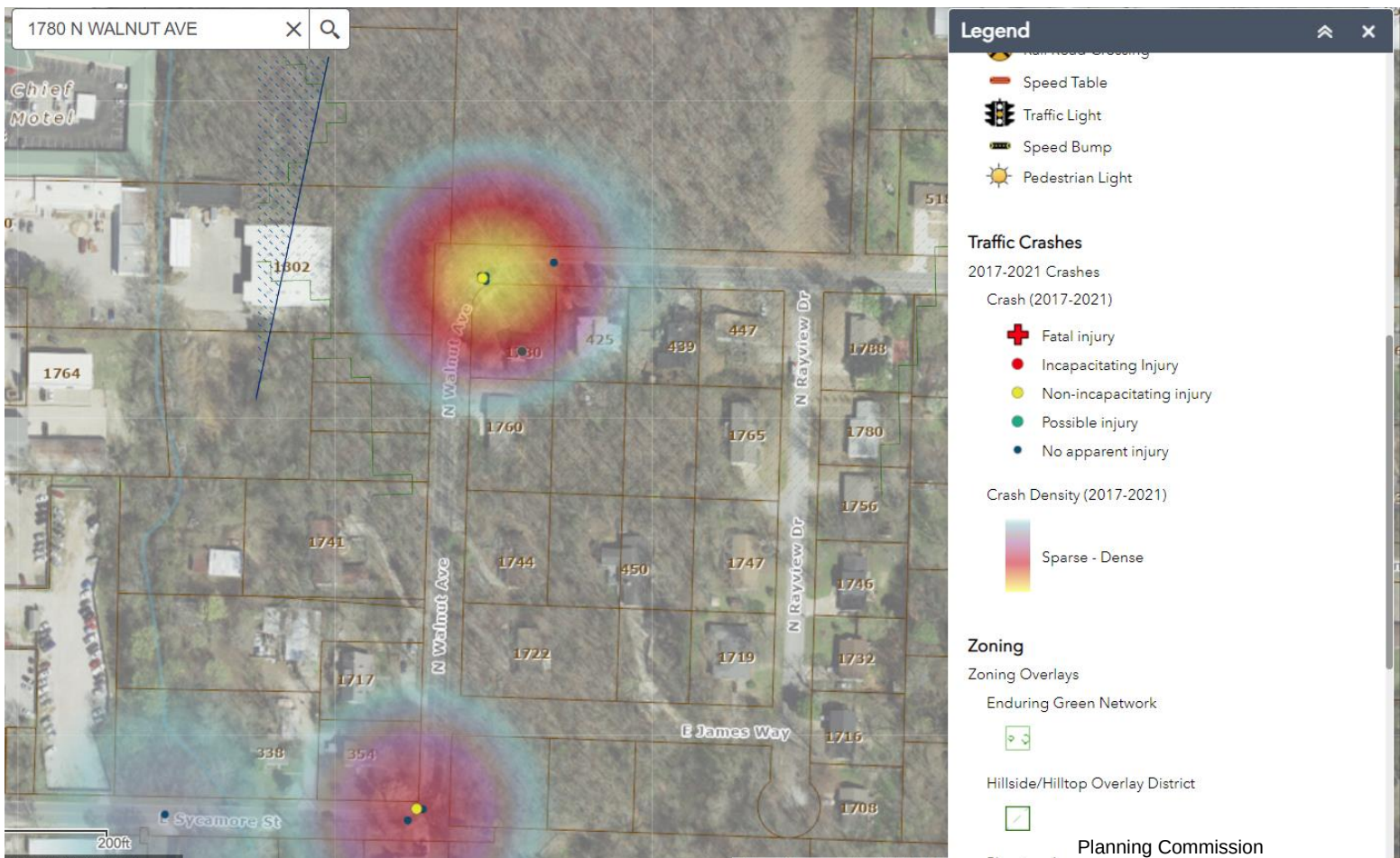
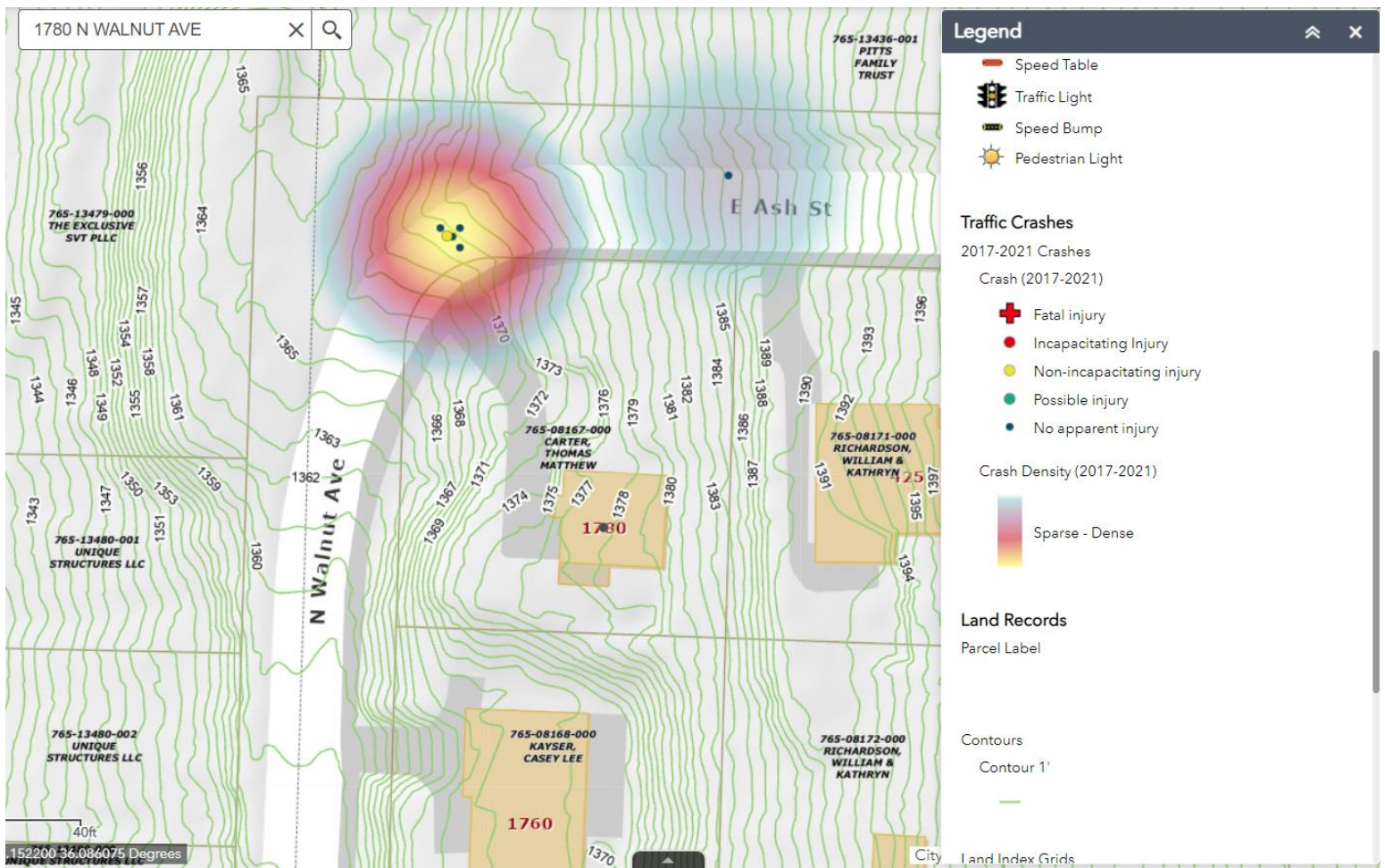


5. Interior Photos



FLOOR PLANS





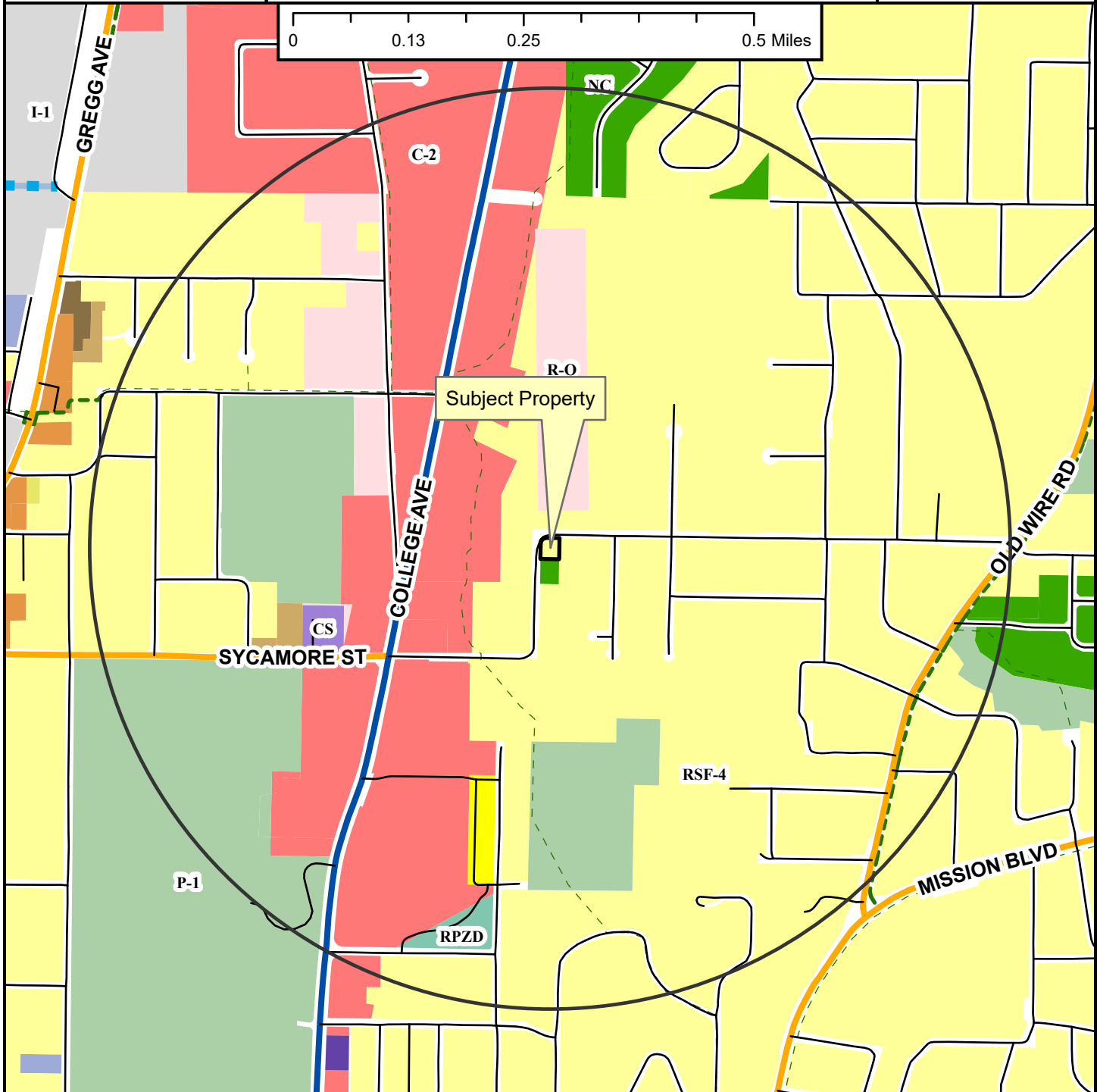
CUP-2023-0086

1780 N. WALNUT AVE

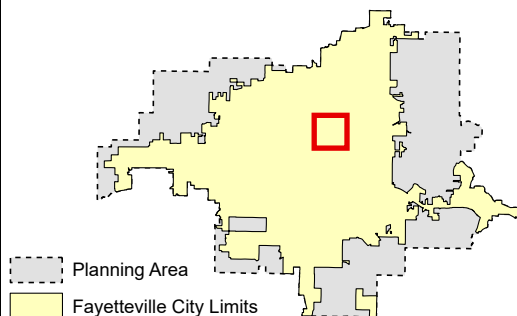
One Mile View



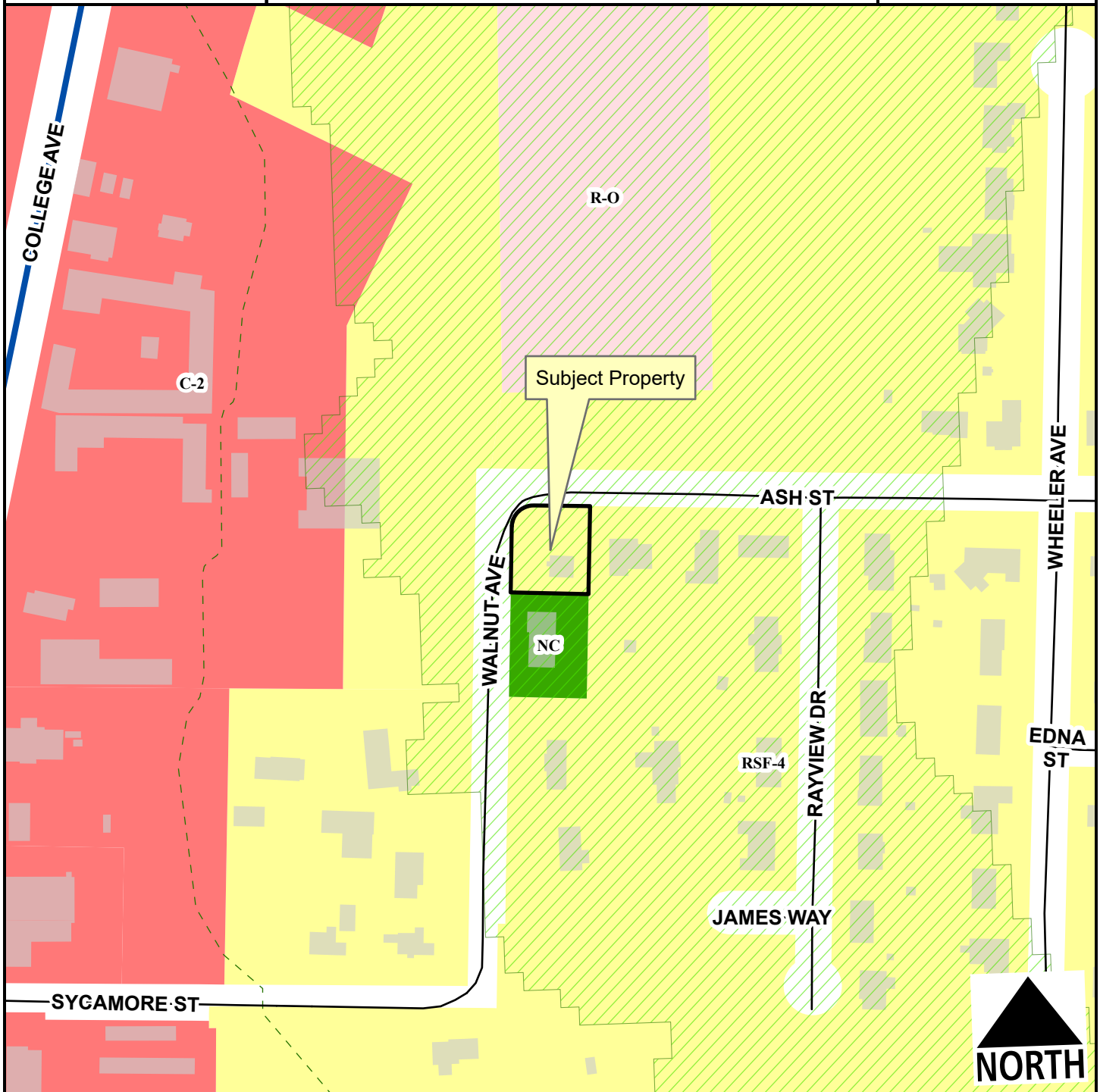
0 0.13 0.25 0.5 Miles



- Neighborhood Link
- Regional Link - High Activity
- Unclassified
- Alley
- Residential Link
- Planned Residential Link
- Shared-Use Paved Trail
- Trail (Proposed)
- Fayetteville City Limits
- Planning Area



- Zoning**
- RESIDENTIAL SINGLE-FAMILY**
 - NS-G
 - RI-U
 - RI-12
 - NS-L
 - Residential-Agricultural
 - RSF-5
 - RSF-1
 - RSF-2
 - RSF-4
 - RSF-7
 - RSF-8
 - RSF-18
 - RESIDENTIAL MULTI-FAMILY**
 - RMF-6
 - RMF-12
 - RMF-13
 - RMF-24
 - RMF-40
 - INDUSTRIAL**
 - I-1 Heavy Commercial and Light Industrial
 - I-2 General Industrial
- EXTRACTION**
- E-1
- COMMERCIAL**
- Residential-Office
 - C-1
 - C-2
 - C-3
- FORM BASED DISTRICTS**
- Downtown Core
 - Urban Thoroughfare
 - Main Street Center
 - Downtown General
 - Community Services
 - Neighborhood Services
 - Neighborhood Conservation
- PLANNED ZONING DISTRICTS**
- Commercial, Industrial, Residential
 - P-1



- Regional Link - High Activity
- Residential Link
- ▨ Hillside-Hilltop Overlay District
- Planning Area
- Fayetteville City Limits
- - - Trail (Proposed)



- ▨ RSF-4
- ▨ Residential-Office
- ▨ C-2
- ▨ Neighborhood Conservation

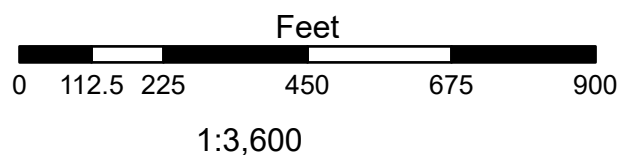
CUP-2023-0086

1780 N. WALNUT AVE

Current Land Use



- Neighborhood Link
- Regional Link - High Activity
- Residential Link
- Trail (Proposed)
- Planning Area
- Fayetteville City Limits



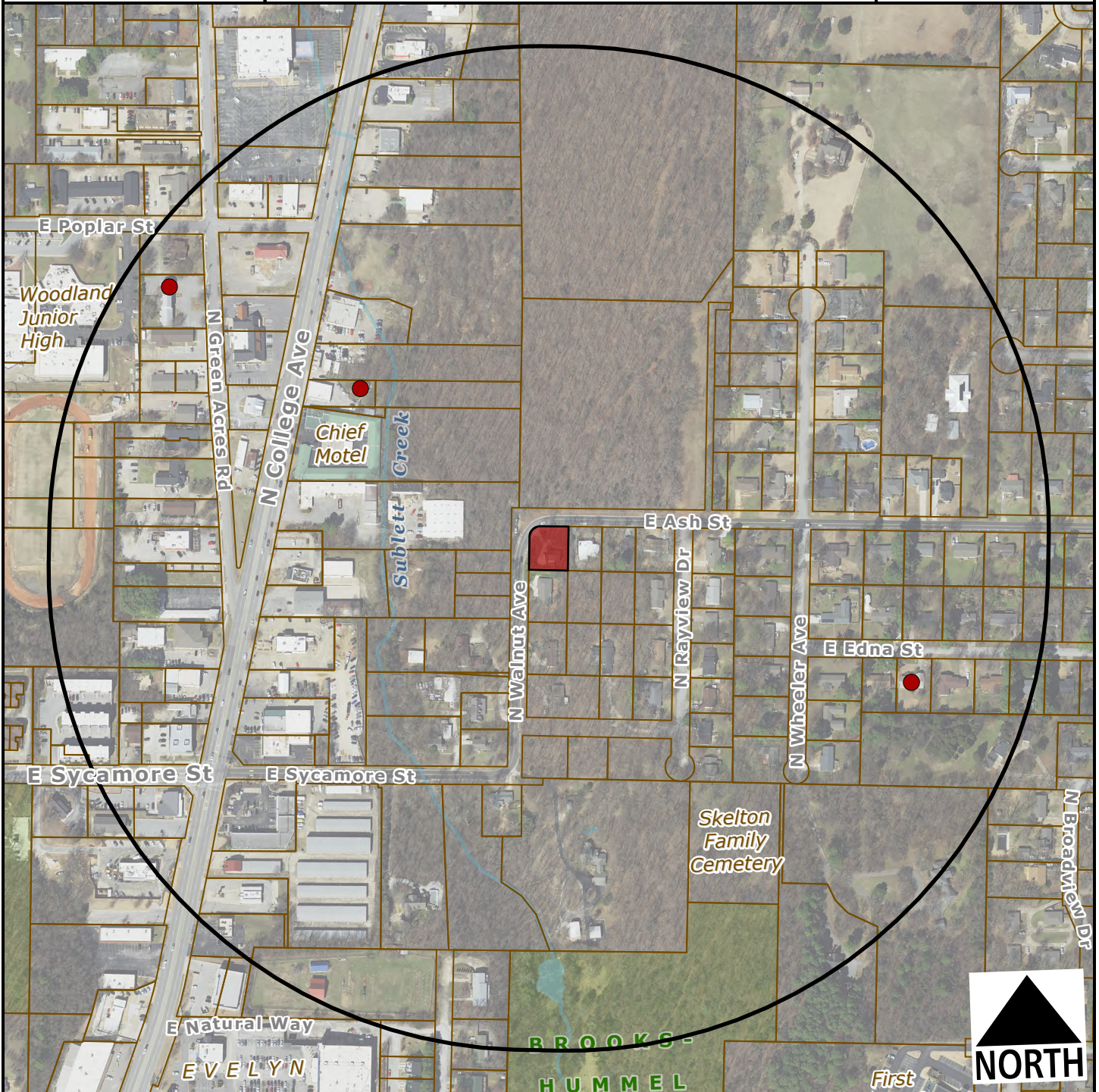
FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

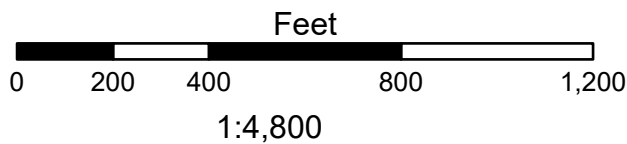
CUP-2023-0086

1780 N. WALNUT AVE

STRs Within 1/4 Mile



-  Subject Property
-  Short Term Rental, Type 2



Number of STR Licenses

Total 3



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Senior Planner

MEETING DATE: August 14, 2023

SUBJECT: **CUP-2023-0041: Conditional Use Permit (1431 W. SLIGO ST. UNIT: 6/SCHMITS, 599):** Submitted by JOSEPH SCHMITS for property located at 1431 W. SLIGO ST. UNIT: 6. The property is zoned RMF-24, RESIDENTIAL MULTI-FAMILY, 24 UNITS PER ACRE and contains approximately 1.47 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:

Staff recommends approval of **CUP-2023-0041** with conditions.

RECOMMENDED MOTION:

*"I move to approve **CUP-2023-0041**, determining:*

- In favor of compatibility with adjacent properties, and*
- In favor of all other conditions as recommended by staff."*

BACKGROUND:

The subject property is located southeast of the intersection of Razorback Avenue and Sligo Street. The property contains 1.47 acres and is developed with a multi-family residential development referred to as The Rock on Razorback Condos. All units in the development are held separately through a horizontal property regime. On April 20, 2021, City Council adopted an ordinance to regulate short-term rentals operating within its limits. On December 20, 2022, City Council amended the ordinance to enact new requirements for short-term rentals, and on July 6, 2023, City Council amended the Type 2 short-term rental density cap from 2% of all dwelling units to 475 units city wide. This report reflects those new changes for consideration. Surrounding land uses and zoning are depicted in *Table 1*.

Table 1:
Surrounding Land Uses and Zoning

Direction	Land Use	Zoning
North	Multi-Family Residential	RMF-24, Residential Multi-Family, 24 Units per Acre
South	Multi-Family Residential	RMF-24, Residential Multi-Family, 24 Units per Acre
East	Industrial	I-1, Heavy Commercial and Light Industrial
West	Multi-Family Residential	RMF-24, Residential Multi-Family, 24 Units per Acre

City Plan 2040 Future Land Use Designation: **City Neighborhood**

Proposal: The applicant requests conditional use permit approval to use the property as a Type 2 short-term rental, which are those not occupied by a permanent resident. Type 2 short-term

rentals are subject to density limitations, including a city-wide cap of 475 units, and restrictions on the number of units that may be used as a short-term rental in multi-family dwelling complexes.

Public Comment: Staff has not received any public comment regarding this request.

RECOMMENDATION: Staff recommends approval of **CUP-2023-0041** with the following conditions:

Conditions of Approval:

1. **Planning Commission determination of compatibility.** *Staff finds the proposed short-term rental to be compatible based on the findings contained herein;*
2. Approval of the conditional use permit does not ensure approval of a business license application. The applicant must still be able to comply with all other applicable requirements in city code;
3. Per UDC §166.20, Expiration of Approved Plans and Permits, a business license must be obtained within one year of conditional use permit approval;
4. Per ordinance, the number of occupants is limited to a maximum of two people per bedroom, plus two, for the entire unit when the property is operated as a short-term rental;
5. Special events including, but not limited to, weddings, receptions, anniversaries, private parties, fundraisers, and business seminars are prohibited from occurring in the short-term rental;
6. No recreational vehicle, trailer, other vehicle, or structure not classified as a permanent residential dwelling may be used as a short-term rental;
7. All trash receptacles shall be screened from view of the right-of-way;
8. All outdoor lighting shall meet requirements as outlined in UDC Chapter 176, Outdoor Lighting;
9. Any signage shall meet the requirements as outlined in UDC Chapter 174, Signs; and
10. Per Business Regulations §120.02(A), the owners of only short-term rentals shall be required to designate and register their landlord's representative into the Landlord's Representative Registry.

PLANNING COMMISSION ACTION:			
Required	<u>YES</u>		
Date: <u>August 14, 2023</u>	☐ Tabled	☐ Approved	☐ Denied
Motion:			
Second:			
Vote:			

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

1. Hear and decide only such special exemptions as it is specifically authorized to pass on by the terms of this chapter;
2. Decide such questions as are involved in determining whether a conditional use should be granted; and,
3. Grant a conditional use with such conditions and safeguards as are appropriate under this chapter; or
4. Deny a conditional use when not in harmony with the purpose and intent of this chapter.

C. Procedures. A conditional use shall not be granted by the Planning Commission unless and until:

1. A written application for a conditional use is submitted indicating the section of this chapter under which the conditional use is sought and stating the grounds on which it is requested.

Finding: The applicant has submitted a written application requesting a conditional use permit for a Type 2 short-term rental in RMF-24 zoning.

2. The applicant shall pay a filing fee as required under Chapter 159 to cover the cost of expenses incurred in connection with processing such application.

Finding: The applicant has paid the required filing fee.

3. The Planning Commission shall make the following written findings before a conditional use shall be issued:
 - (a.) That it is empowered under the section of this chapter described in the application to grant the conditional use; and

Finding: The Planning Commission is empowered under Business Regulations §118.01(E)(2) to grant the requested conditional use permit.

- (b.) That the granting of the conditional use will not adversely affect the public interest.

Finding: Staff finds that granting the requested conditional use is unlikely to adversely affect the public interest given the applicable business license requirements, including a required building safety inspection, and applicable density caps on Type 2 short-term rentals.

- (c.) The Planning Commission shall certify:
 - (1.) Compliance with the specific rules governing individual conditional uses; and

Finding: There are specific rules governing short-term rentals, as follows:

§163.18. SHORT-TERM RENTALS.

- A. Residential Zoning Districts.** Type 2 short-term rentals may be permitted as a conditional use in the following residential zoning districts: R-A, RSF-1, RSF-2, RSF-4, RSF-7, RSF-8, RSF-18, RI-12, RI-U, RMF-6, RMF-12, RMF-18, RMF-24, RMF-40, and NC. Short-term rentals may be permitted by right or by conditional use in planned zoning districts subject to the zoning regulations enacted by the City Council for each district. Short-term rentals in non-residential zoning districts, mixed use zoning districts, or other zoning districts not listed above are not required to apply for a conditional use permit.

Finding: The request is to operate a Type 2 short-term rental in RMF-24 zoning. Since RMF-24 is a residential zoning district, a conditional use permit is required.

- B. Occupancy.** Maximum of two (2) people per bedroom, plus two (2), for the entire unit when operated as a short-term rental.

Finding: According to the applicant, this unit contains one bedroom, which would limit occupancy in this short-term rental to a maximum of four guests per ordinance. Occupancy limitations are confirmed by the applicant during licensing.

- C. Parking.** Parking is limited to the maximum number of vehicles as allowed by the underlying zoning district for the residential building on the property.

Finding: Parking for multi-family dwellings is required to be provided at a rate of one space per bedroom. Since this unit contains one bedroom, one parking space is required. The applicant stated in their request letter that there is one space reserved for this unit in an existing parking lot.

- D.** Special events are not permitted in a short-term rental. Example of special events include, but are not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars.

Finding: The application letter suggests the property will comply with the City's regulations for a short-term rental. As a condition of approval, staff recommends a prohibition on special events.

- E.** Short-term rental units are allowed in any structure established as a permanent residential dwelling including an accessory dwelling unit. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

Finding: The application is for use of the property at 1431 W. Sligo St. Unit: 6. Staff recommends a condition confirming that no recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

- F. **Exceptions.** Exceptions to the short-term rental standards, except proposals that would exceed the city-wide density maximum, may be granted by the Planning Commission as a conditional use permit.

Finding: Type 2 short-term rentals are subject to a city-wide density cap at 475 units. As of August 7, 2023, the City had issued 392 Type 2 short-term rental business licenses. Granting a conditional use permit for this location would give the applicant the zoning entitlement necessary to apply for a business license, but it would not guarantee approval of a business license.

- G. Short-term rentals must comply with all applicable codes under City Code §118.01 and successfully obtain a business license prior to operation.

Finding: This short-term rental would be subject to all codes in Business Regulations §118.01 that apply to Type 2 short-term rentals in residential zoning districts. Applicable business licensing requirements will be reviewed by staff and confirmed by the applicant at the time of licensing.

- H. Short-term rentals in residential zoning districts may be subject to denial or additional conditions based upon the Planning Commission's findings on the following factors:

1. Adequate parking infrastructure;
2. Adequate adjoining or nearby streets for on-street parking;
3. Frequency or concentration of nearby licensed Type 2 short-term rentals; and
4. Prior zoning or code violations.

Finding: There appears to be adequate parking available to support the use of the property as a short-term rental based on the applicant's submittal. The applicant has indicated that there is one parking spaces reserved for this unit and only four guests would be permitted based on occupancy limitations. On-street parking does not appear to be available nearby. City records indicate that two other units within a quarter-mile radius of the property have active Type 2 short-term rental business license, including one other unit in The Rock on Razorback Condos. City records also indicate that no zoning or code violations related to this unit have been reported to date.

§163.02. AUTHORITY; CONDITIONS; PROCEDURES. (continued)

- (2.) That satisfactory provisions and arrangements have been made concerning the following, where applicable:

- (a.) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe;

Finding: A shared private driveway with access onto Sligo Street is available to accommodate vehicular ingress and egress to the subject property. There is also sidewalk present at the back of curb along Sligo Street and Razorback Road to accommodate pedestrian access to the site. Staff finds that the proposed use of the property as a short-term rental will not adversely affect traffic flows considering the use of the property would be limited to a maximum of six guests, which would not be out of character with the use of the property for residential purposes.

(b.) Off-street parking and loading areas where required, with particular attention to ingress and egress, economic, noise, glare, or odor effects of the special exception on adjoining properties and properties generally in the district;

Finding: The applicant has stated that there is one parking space reserved for this unit in an existing parking lot. The short-term rental ordinance limits the number of guest vehicles to the maximum number of vehicles as allowed by the underlying zoning district.

(c.) Refuse and service areas, with particular reference to ingress and egress, and off-street parking and loading;

Finding: The applicant proposes to utilize existing dumpster services. One dumpster is currently available near the entrance to the property which is partially screened by a wooden fence. Staff recommends a condition confirming that all trash be placed in the existing dumpster.

(d.) Utilities, with reference to locations, availability, and compatibility;

Finding: Utilities are currently available to the property and its use as a short-term rental is not anticipated to impact the provision of utilities.

(e.) Screening and buffering with reference to type, dimensions, and character;

Finding: Staff recommends no additional screening or buffering with the requested use.

(f.) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;

Finding: Any proposed signage will be subject to Unified Development Code Chapter 174, Signs, and all regulations therein.

(g.) Required yards and other open space; and

Finding: Based on the applicant's submittal and city records, this unit is meeting relevant setbacks.

(h.) General compatibility with adjacent properties and other property in the district.

Finding: Staff finds the proposed use to be compatible with surrounding properties. The property is surrounded by residential uses and short-term rentals are permitted by right in the underlying RMF-24 zoning district. There appears to be adequate parking to accommodate the number of permitted guests and staff does not anticipate any adverse traffic impacts with this request.

(i.) General compatibility with the goals and intent of the city's adopted land-use, transportation, and other strategic plans.

Finding: Staff finds the proposed use to be somewhat incompatible with the goals and intent of the City's adopted land use, transportation, and other strategic plans, since it does not clearly support any of the stated goals in those plans. However, there are safeguards in place that limit how short-term rentals operate to ensure that the City can still meet those goals, including a city-wide density cap and restrictions on the number of units that may be used as a short-term rental in multi-family dwelling complexes.

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

- Business Regulations
 - §118.01 Applicability
- Unified Development Code
 - §161.16 District RMF-24, Residential Multi-Family – Twenty-Four (24) Units Per Acre
 - §163.18 Type 2 Short-Term Rentals in Residential Zoning Districts
- Applicant Request Letter
- Building Floor Plans
- Building Elevations
- Site Plan
- One Mile Map
- Close-Up Map
- Current Land Use Map
- STRs within ¼ Mile Map

118.01 Applicability

- (E) *Short-Term Rentals.* A residential dwelling unit, portion of a dwelling unit, or bedroom within a residential dwelling unit, leased and/or rented to a guest(s), for a period of less than thirty consecutive (30) days.
- (1) *Short-Term Rental, Type 1.* A short-term rental where the principal use of the property remains as a full-time residence. The occupants or owner rent their primary residence as a short-term rental. A copy of the Homestead Tax Credit or long-term lease agreement for the subject property is required to be classified as a Type 1 rental. The occupant or owner must occupy the residence for nine (9) months of the year. Accessory dwelling units (ADUs) as defined in Unified Development Code Chapter 151 shall be considered a Type 1 short-term rental.
 - (2) *Short-Term Rental, Type 2.* A short-term rental that is not occupied by a permanent resident. The owner lists this property full-time as a short-term rental and has no intention of having permanent residents living in the property. A conditional use permit is required for a Type 2 short-term rental in a residential zoning district prior to the city issuing a business license.
 - (3) *License Required.* No dwelling unit in the city shall be used as a short-term rental unless:
 - (a) The owner of the dwelling unit or operator of the short-term rental possess a valid and current business license for the dwelling unit, and fully complies with all legal requirements and duties imposed herein with respect to each and every short-term rental; and
 - (b) The owner has designated an agent, where said agent fully complies with all legal requirements and duties imposed herein with respect to every short-term rental. The owner may serve as their own agent.
 - (c) The owner of the dwelling unit or operator of the short-term rental provides proof of a valid and current homeowners insurance rider policy which fully covers each unit when operated as short-term rental unit.
 - (4) A separate business license shall be required for each dwelling unit used as a short-term rental.
 - (5) Any change in ownership requires a new or amended business license.
 - (6) If any required contact information changes for the associated business license, the person to whom the license was issued shall immediately notify the Development Services Department in writing.
 - (7) *License Application.* The application for a business license shall include at minimum, the following information from applicants:
 - (a) The property owner's information including legal name, mailing address, immediate contact phone number, and immediate contact E-mail address.
 - (b) Information for the dwelling unit subject to the application, inclusive of the physical street address assigned by the city.
 - (c) The type and total number of dwelling units located on the lot of record containing the dwelling unit subject to the application.
 - (d) If the owner is not their own agent, the owner designated agent's information including legal name, mailing address, immediate contact phone number and immediate contact E-mail address.
 - (e) Documentation of approval of a life safety and egress inspection by the City Building Safety Division for the dwelling unit subject to the application.
 - (f) Proof of application for remittance of hotel, motel and restaurant tax to the City of Fayetteville, and verification that all sales, use, and hotel, motel and restaurant taxes are current.
 - (g) Any additional data as deemed necessary or desirable for permit approval by the Development Services Director.
 - (8) *License Renewals.* Business licenses for short-term rentals shall be renewed in accordance with Chapter 118 of the Business Regulations (Business Registry and Licenses).
 - (9) *Legal Duties of License Holders.* An owner possessing a short-term rental license shall comply at all times with the following requirements:
 - (a) *Occupancy.* Short-term rentals shall be subject to, and may not exceed, the occupancy limits approved with the business license.
 - (b) *Advertisements.* A short-term rental shall not be advertised if it violates occupancy, density, safety, and any of the other provisions of the Fayetteville Code. No short-term rental unit shall be advertised prior to having obtained a business license and the business license number shall be included in the advertisement listing.
 - (c) *Information and Posting.* Business licensees shall provide to guests and post conspicuously in the common area of the short-term rental unit the city phone number to report a safety complaint.
 - (10) *Owner or Agent Accessibility.* The property owner shall ensure that they or a designated agent are available at all times during guest occupancy, including nights and weekends, in order to facilitate compliance with this section. For the purposes of these regulations, 'availability' means that the owner or agent is accessible

- by telephone, and, able to be physically present at the short-term rental within three (3) hours of being contacted.
- (11) *Guest Records.* The owner shall maintain summary guest registration records, which shall contain the actual dates of occupancy, total number of guests per party per stay, and the rate(s) charged, but shall not contain any personally identifiable information about guests. Such records shall be maintained for three (3) years and shall be provided to the City upon request.
 - (12) *Health and Safety.* The owner shall ensure that each dwelling unit governed by this section complies with the applicable provisions of the Unified Development Code Chapter 173, Building Regulations.
 - (13) *Criminal Activity.* The owner shall timely report any known or reasonably suspected criminal activity by a guest to the Fayetteville Police Department within twelve (12) hours maximum.
 - (14) *Taxes and Fees.* Except for those instances in which a hosting platform bears the responsibility for collecting and remitting taxes and fees applicable to short-term rentals, the property owner shall timely remit in full Fayetteville Hotel, Motel and Restaurant tax and other applicable local, state, and federal taxes and city fees owed in connection with any short-term rental. The failure of a hosting platform to collect and remit taxes and fees shall not relieve an owner of the obligation to pay taxes and fees owed pursuant to this section.
 - (15) *Authorization to Occupy, Use, and Operate.* Authorization to operate a short-term rental may be granted by the Development Services Director through the issuance of a City of Fayetteville Business Registry and License (Business License).
 - (16) *Density For Type 2 Short-Term Rentals.* A city-wide density cap of 475 dwelling units may be Type 2 rentals. A conditional use permit may not permit:
 - (a) More Type 2 short-term rentals than what is allowed by the city-wide density cap.
 - (b) More than 10% or a single unit whichever is greater; of total dwelling units as Type 2 rentals within a multi-family dwelling complex.
 - (c) Individual 2-, 3- and 4-family buildings that are owned by the same person or entity and are not a part of a multi-family complex shall have no more than one (1) Type 2 short-term rental unit per building complex.
 - (d) Where attached residential units are held separately through condominium association, horizontal property regime, fee simple, or similar ownership structure, no cap shall be applied to buildings with attached residential dwellings. Structures of attached residential dwellings where applicants seek more than 10% of total units for licensing as Type 2 rentals shall be evaluated by the Building Safety Director and/or Fire Marshal for adequate fire protection as defined by the adopted Arkansas Fire Prevention Code. Where inadequate fire protection is identified, improvements may be required prior to issuance of a business license.
 - (17) *Suspension and Revocation.* If the Development Services Director has reason to believe that any of the grounds specified in §118.03(A) of the Fayetteville Code exist, or that any rental unit was rented for less than one (1) full night, or to more than one (1) part of guests for the same period of time, or otherwise failed to comply with all terms and conditions of this section, the Development Services Director may suspend or revoke the short-term rental's business license pursuant to the procedures detailed in §118.03 and in §118.04 of the Fayetteville Code.
 - (18) Short-term rentals must comply with all applicable codes under Unified Development Code §163.18 and § 164.26 successfully obtain a business license prior to operation.

161.16 District RMF-24, Residential Multi-Family - Twenty-Four (24) Units Per Acre

(A) *Purpose.* The RMF-24 Multi-family Residential District is designed to permit and encourage the developing of a variety of dwelling types in suitable environments in a variety of densities.

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three (3) and four (4) family dwellings
Unit 26	Multi-family dwellings
Unit 41	Accessory dwellings
Unit 44	Cluster Housing Development
Unit 46	Short-term rentals

(2) *Conditional Uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 11	Manufactured home park
Unit 12a	Limited business
Unit 24	Home occupations
Unit 25	Professional offices
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	24 or less
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(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

Manufactured home park	100 feet
Lot within a Manufactured home park	50 feet
Single-family	35 feet
Two-family	35 feet
Three or more	70 feet
Professional offices	100 feet

(2) *Lot Area Minimum.*

Manufactured home park	3 acres
Lot within a mobile home park	4,200 square feet
Townhouses: Individual lot	2,000 square feet
Single-family	3,000 square feet
Two (2) family	4,000 square feet
Three (3) or more	7,000 square feet
Fraternity or Sorority	2 acres
Professional offices	1 acres

(3) *Land Area Per Dwelling Unit.*

Manufactured Home	3,000 square feet
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(E) *Setback Requirements.*

Front	Side Other Uses	Side Single & Two (2) Family	Rear Other Uses	Rear Single Family
A build-to zone that is located between the front property line and a line 25 feet from the front property line.	8 feet	5 feet	20 feet	5 feet

(F) *Building Height Regulations.*

Building Height Maximum	2 stories/3 stories/5 stories*
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* A building or a portion of a building that is located between 0 and 10 feet from the front property line or any master street plan right-of-way line shall have a maximum height of two (2) stories, between 10—20 feet from the master street plan right-of-way a maximum height of three (3) stories and buildings or portions of the building set back greater than 20 feet from the master street plan right-of-way shall have a maximum height of 5 stories.

If a building exceeds the height of two (2) stories, the portion of the building that exceeds two (2) stories shall have an additional setback from any side boundary line of an adjacent single family district. The amount of additional setback for the portion of the building over two (2) stories shall be equal to the difference between the total height of that portion of the building, and two (2) stories.

(G) *Building Area.* The area occupied by all buildings shall not exceed 50% of the total lot area. Accessory ground mounted solar energy systems shall not be considered buildings.

(H) *Minimum Buildable Street Frontage.* 50% of the lot width.

163.18 Type 2 Short-Term Rentals in Residential Zoning Districts

- (A) *Residential Zoning Districts.* Type 2 short-term rentals may be permitted as a conditional use in the following residential zoning districts:

- 1) R-A
- 2) RSF-.5
- 3) RSF-1
- 4) RSF-2
- 5) RSF-4
- 6) RSF-7
- 7) RSF-8
- 8) RSF-18
- 9) RI-12
- 10) RI-U
- 11) RMF-6
- 12) RMF-12
- 13) RMF-18
- 14) RMF-24
- 15) RMF-40
- 16) NC

Short-term rentals may be permitted by right or by conditional use in planned zoning districts subject to the zoning regulations enacted by the City Council for each district.

Short-term rentals in non-residential zoning districts, mixed use zoning districts, or other zoning districts not listed above are not required to apply for a conditional use permit.

- (B) *Occupancy.* Maximum of two (2) people per bedroom, plus two (2), for the entire unit when operated as a short-term rental.
- (C) *Parking.* Parking is limited to the maximum number of vehicles as allowed by the underlying zoning district for the residential building on the property.
- (D) Special events are not permitted in a short-term rental. Example of special events include, but are not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars.
- (E) Short-term rental units are allowed in any structure established as a permanent residential dwelling including an accessory dwelling unit. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.
- (F) *Exceptions.* Exceptions to the short-term rental standards, except proposals that would exceed the city-wide density maximum, may be granted by the Planning Commission as a conditional use permit.
- (G) Short-term rentals must comply with all applicable codes under City Code §118.01 and successfully obtain a business license prior to operation.
- (H) Short-term rentals in residential zoning districts may be subject to denial or additional conditions based upon the Planning Commission's findings on the following factors:
- 1) Adequate parking infrastructure;
 - 2) Adequate adjoining or nearby streets for on-street parking;
 - 3) Frequency or concentration of nearby licensed Type 2 short-term rentals; and
 - 4) Prior zoning or code violations

To Whom It May Concern:

This is a request for a Conditional Use Permit for my property at 1431 W Sligo St. #6, Fayetteville, AR 72701.

- The condo is 484 square feet. The entire unit would be used for a STR.
- There is one assigned off street parking space assigned to the unit that would be strictly used for the purpose of guests.
- There are no employees or business hours, but there would be rules of quiet hours from 10 p.m. to 8 a.m.
- The average number of patrons would be 2, but the plan would be to put in a pull-out couch to make the occupancy limit 4.
- There is outdoor lighting around the property and at the exterior doorway entrance of the unit.
- The noise will be mitigated by having house rules consisting of respecting neighbors and quiet time.
- The buffer between other properties are the condo walls inside.
- The trash and refuse service is at the entrance of the complex off of Sligo. It is visible to residents of the complex.
- Ingress and egress to the property is off of Sligo. There should be no traffic impacts as there is only parking for 1 vehicle. The space is off-street parking as well.
- The general compatibility of the proposed use is good. There is currently 1 short term rental there. Also, it shouldn't affect the community at all.

Legal Description

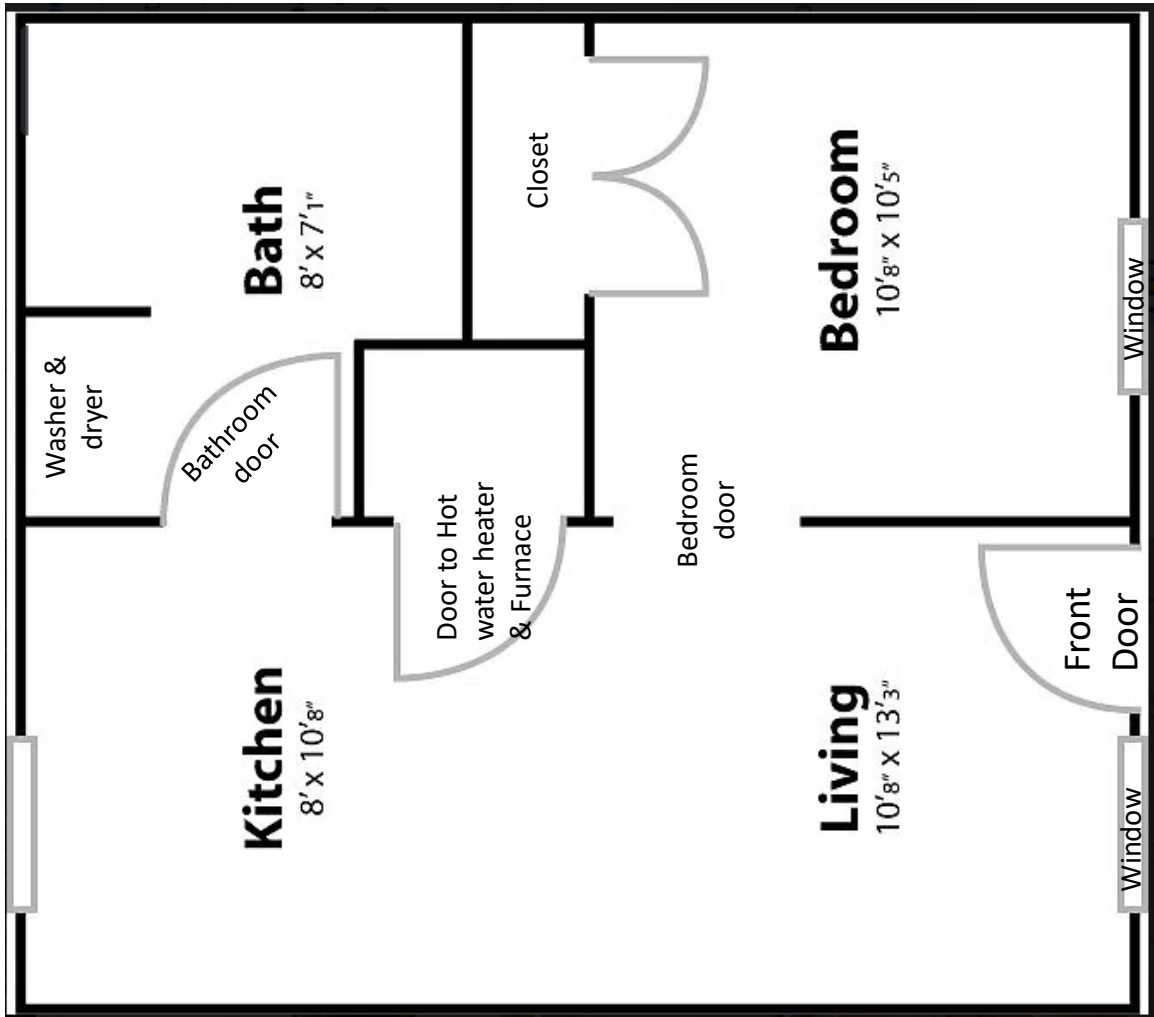
1431 Sligo St. #6, Fayetteville, AR 72701

765-26002-000

ROCK ON RAZORBACK CONDOS (THE) - HPR

004/006

Washington County









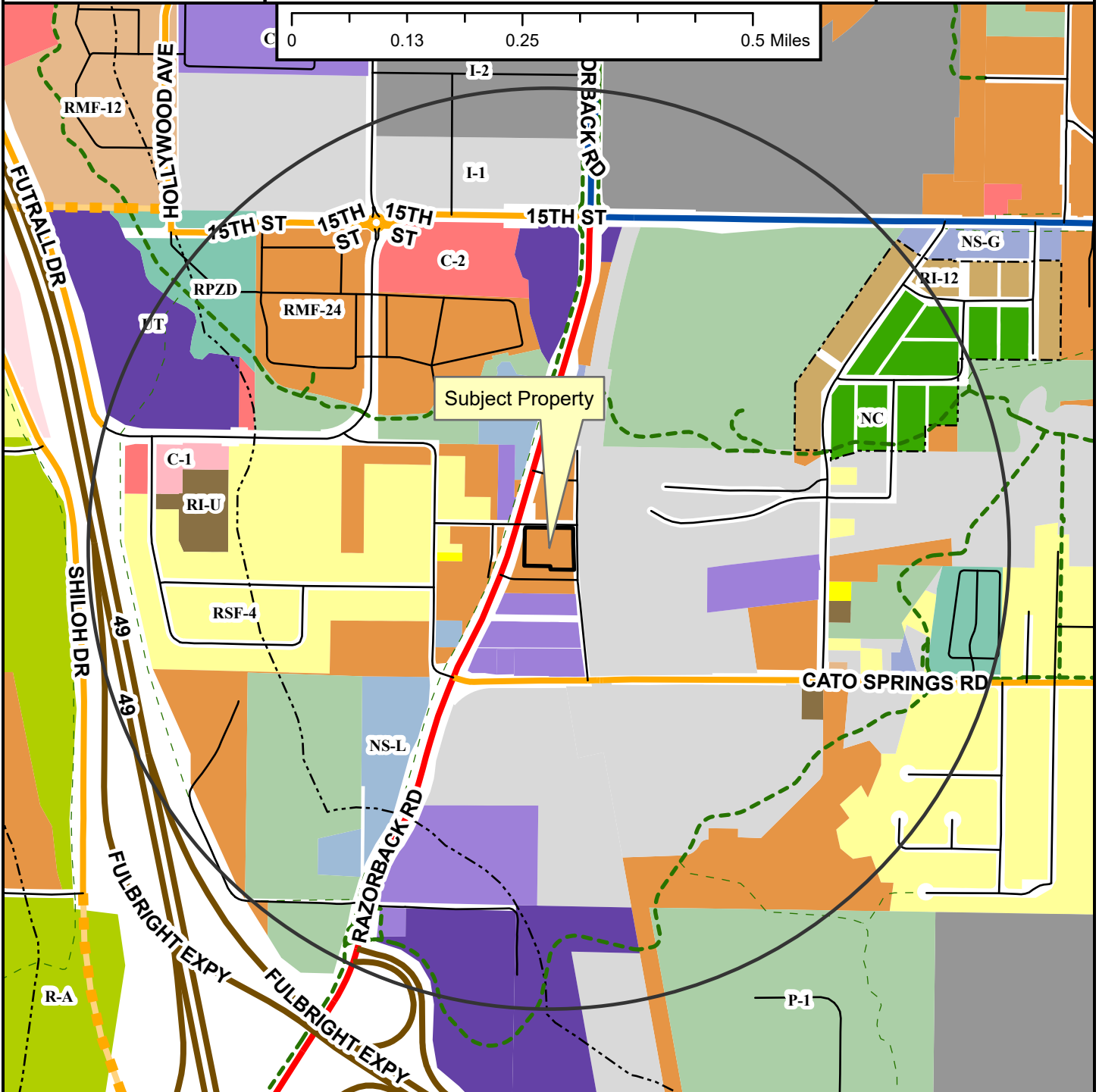
CUP-2023-0041

1431 W. SLIGO ST, UNIT 6

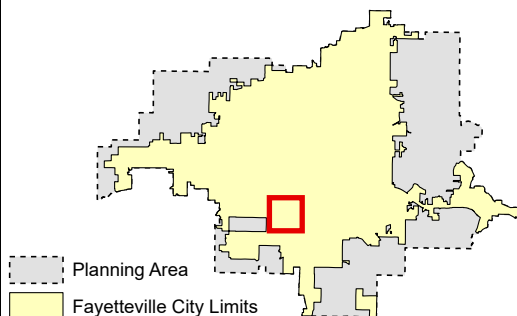
One Mile View



0 0.13 0.25 0.5 Miles



- Regional Link
- Neighborhood Link
- Regional Link - High Activity
- Freeway/Expressway
- Unclassified
- Alley
- Residential Link
- Planned Neighborhood Link
- Shared-Use Paved Trail
- Trail (Proposed)
- Design Overlay District
- Fayetteville City Limits
- Planning Area

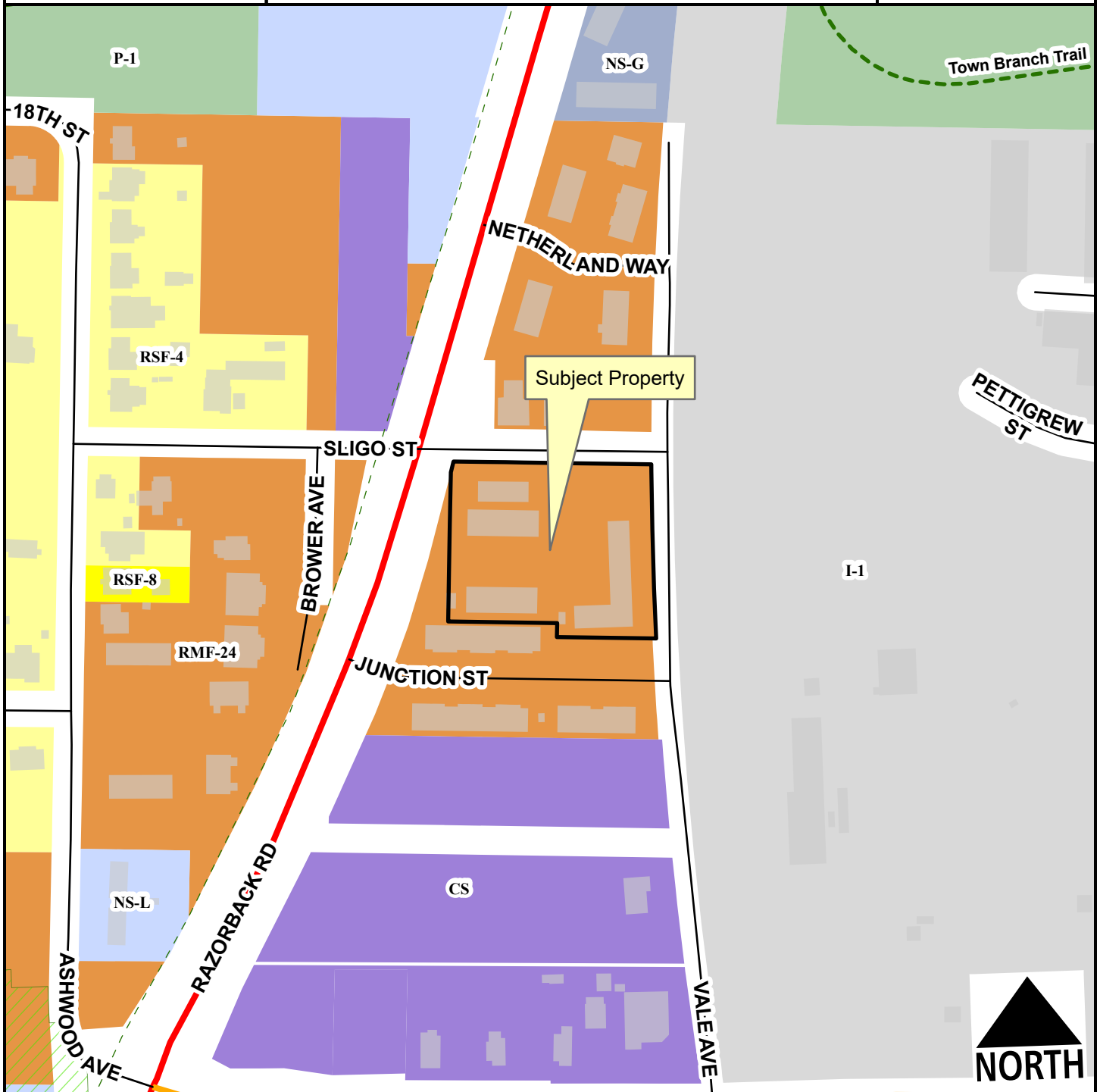


- | | |
|---|-------------------------------------|
| Zoning | EXTRACTION |
| RESIDENTIAL SINGLE-FAMILY | E-1 |
| NS-G | COMMERCIAL |
| RI-U | Residential-Office |
| RI-12 | C-1 |
| NS-L | C-2 |
| Residential-Agricultural | C-3 |
| RSF-5 | FORM BASED DISTRICTS |
| RSF-1 | Downtown Core |
| RSF-2 | Urban Thoroughfare |
| RSF-4 | Main Street Center |
| RSF-7 | Downtown General |
| RSF-8 | Community Services |
| RSF-18 | Neighborhood Services |
| RESIDENTIAL MULTI-FAMILY | Neighborhood Conservation |
| RMF-6 | PLANNED ZONING DISTRICTS |
| RMF-12 | Commercial, Industrial, Residential |
| RMF-13 | INSTITUTIONAL |
| RMF-24 | P-1 |
| RMF-40 | |
| INDUSTRIAL | |
| I-1 Heavy Commercial and Light Industrial | |
| I-2 General Industrial | |

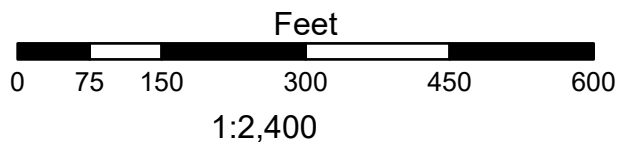
CUP-2023-0041

1431 W. SLIGO ST, UNIT 6

Close Up View



- Regional Link
- Neighborhood Link
- Unclassified
- Residential Link
- Hillside-Hilltop Overlay District
- Planning Area
- Fayetteville City Limits
- Shared-Use Paved Trail
- Trail (Proposed)



- RSF-4
- RSF-8
- RMF-24
- I-1 Heavy Commercial and Light Industrial
- Community Services
- Neighborhood Services - Ltd.
- Neighborhood Services - Gen.
- P-1

CUP-2023-0041

1431 W. SLIGO ST, UNIT 6

Current Land Use



- Regional Link
- Neighborhood Link
- Unclassified
- Residential Link
- Trail (Proposed)
- Planning Area
- Fayetteville City Limits



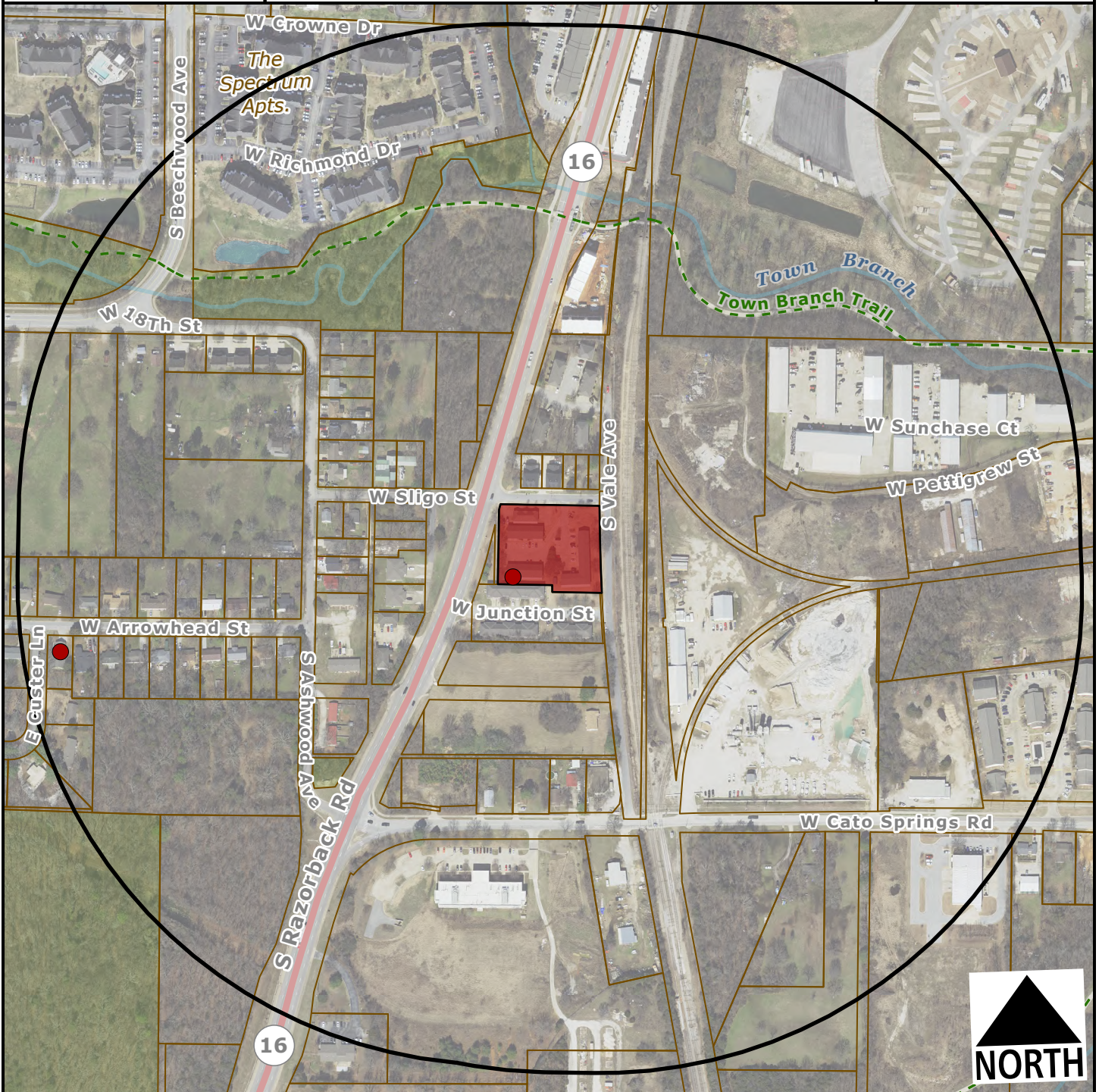
FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

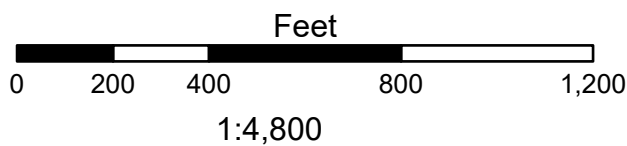
CUP-2023-0041

1431 W. SLIGO ST, UNIT 6

STRs Within 1/4 Mile



- Subject Property
- Short Term Rental, Type 2



Number of STR Licenses

Total 2



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Senior Planner

MEETING DATE: August 14, 2023

SUBJECT: **CUP-2023-0080: Conditional Use Permit (1416 S. DUNCAN AVE./BRICKEY, 561):** Submitted by MICHAEL BRICKEY for property located at 1416 S. DUNCAN AVE. The property is zoned RMF-24, RESIDENTIAL MULTI-FAMILY, 24 UNITS PER ACRE and contains approximately 0.10 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:

Staff recommends approval of **CUP-2023-0080** with conditions.

RECOMMENDED MOTION:

*"I move to approve **CUP-2023-0080**, determining:*

- In favor of compatibility with adjacent properties, and*
- In favor of all other conditions as recommended by staff."*

BACKGROUND:

The subject property is located in south Fayetteville on the east side of Duncan Avenue about 200 feet north of the street's intersection with 15th Street. The property contains 0.10 acres and is developed with a 1,280-square-foot, two-bedroom, single-family dwelling which was built earlier this year. On April 20, 2021, City Council adopted an ordinance to regulate short-term rentals operating within its limits. On December 20, 2022, City Council amended the ordinance to enact new requirements for short-term rentals, and on July 6, 2023, City Council amended the Type 2 short-term rental density cap from 2% of all dwelling units to 475 units city wide. This report reflects those new changes for consideration. Surrounding land uses and zoning are depicted in *Table 1*.

Table 1:
Surrounding Land Uses and Zoning

Direction	Land Use	Zoning
North	Single-Family Residential	RMF-24, Residential Multi-Family, 24 Units per Acre
South	Single-Family Residential	RMF-24, Residential Multi-Family, 24 Units per Acre
East	Undeveloped	RMF-24, Residential Multi-Family, 24 Units per Acre
West	Two-Family Residential	RMF-24, Residential Multi-Family, 24 Units per Acre

City Plan 2040 Future Land Use Designation: **City Neighborhood**

Proposal: The applicant requests conditional use permit approval to use the property as a Type 2 short-term rental, which are those not occupied by a permanent resident. Type 2 short-term

rentals are subject to density limitations, including a city-wide cap of 475 units, and restrictions on the number of units that may be used as a short-term rental in multi-family dwelling complexes.

Public Comment: Staff has not received any public comment regarding this request.

RECOMMENDATION: Staff recommends approval of **CUP-2023-0080** with the following conditions:

Conditions of Approval:

1. **Planning Commission determination of compatibility.** *Staff finds the proposed short-term rental to be compatible based on the findings contained herein;*
2. Approval of the conditional use permit does not ensure approval of a business license application. The applicant must still be able to comply with all other applicable requirements in city code;
3. Per UDC §166.20, Expiration of Approved Plans and Permits, a business license must be obtained within one year of conditional use permit approval;
4. Per ordinance, the number of occupants is limited to a maximum of two people per bedroom, plus two, for the entire unit when the property is operated as a short-term rental;
5. Special events including, but not limited to, weddings, receptions, anniversaries, private parties, fundraisers, and business seminars are prohibited from occurring in the short-term rental;
6. No recreational vehicle, trailer, other vehicle, or structure not classified as a permanent residential dwelling may be used as a short-term rental;
7. All trash receptacles shall be screened from view of the right-of-way;
8. All outdoor lighting shall meet requirements as outlined in UDC Chapter 176, Outdoor Lighting;
9. Any signage shall meet the requirements as outlined in UDC Chapter 174, Signs; and
10. Per Business Regulations §120.02(A), the owners of only short-term rentals shall be required to designate and register their landlord's representative into the Landlord's Representative Registry.

PLANNING COMMISSION ACTION:			
Required	<u>YES</u>		
Date: <u>August 14, 2023</u>	☐ Tabled	☐ Approved	☐ Denied
Motion:			
Second:			
Vote:			

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

1. Hear and decide only such special exemptions as it is specifically authorized to pass on by the terms of this chapter;
2. Decide such questions as are involved in determining whether a conditional use should be granted; and,
3. Grant a conditional use with such conditions and safeguards as are appropriate under this chapter; or
4. Deny a conditional use when not in harmony with the purpose and intent of this chapter.

C. Procedures. A conditional use shall not be granted by the Planning Commission unless and until:

1. A written application for a conditional use is submitted indicating the section of this chapter under which the conditional use is sought and stating the grounds on which it is requested.

Finding: **The applicant has submitted a written application requesting a conditional use permit for a Type 2 short-term rental in RMF-24 zoning.**

2. The applicant shall pay a filing fee as required under Chapter 159 to cover the cost of expenses incurred in connection with processing such application.

Finding: **The applicant has paid the required filing fee.**

3. The Planning Commission shall make the following written findings before a conditional use shall be issued:
 - (a.) That it is empowered under the section of this chapter described in the application to grant the conditional use; and

Finding: **The Planning Commission is empowered under Business Regulations §118.01(E)(2) to grant the requested conditional use permit.**

- (b.) That the granting of the conditional use will not adversely affect the public interest.

Finding: **Staff finds that granting the requested conditional use is unlikely to adversely affect the public interest given the applicable business license requirements, including a required building safety inspection, and applicable density caps on Type 2 short-term rentals.**

- (c.) The Planning Commission shall certify:
 - (1.) Compliance with the specific rules governing individual conditional uses; and

Finding: There are specific rules governing short-term rentals, as follows:

§163.18. SHORT-TERM RENTALS.

- A. Residential Zoning Districts.** Type 2 short-term rentals may be permitted as a conditional use in the following residential zoning districts: R-A, RSF-.5, RSF-1, RSF-2, RSF-4, RSF-7, RSF-8, RSF-18, RI-12, RI-U, RMF-6, RMF-12, RMF-18, RMF-24, RMF-40, and NC. Short-term rentals may be permitted by right or by conditional use in planned zoning districts subject to the zoning regulations enacted by the City Council for each district. Short-term rentals in non-residential zoning districts, mixed use zoning districts, or other zoning districts not listed above are not required to apply for a conditional use permit.

Finding: The request is to operate a Type 2 short-term rental in RMF-24 zoning. Since RMF-24 is a residential zoning district, a conditional use permit is required.

- B. Occupancy.** Maximum of two (2) people per bedroom, plus two (2), for the entire unit when operated as a short-term rental.

Finding: The dwelling has two bedrooms which would limit occupancy to a maximum of six guests per ordinance. Occupancy limitations are confirmed by the applicant during licensing.

- C. Parking.** Parking is limited to the maximum number of vehicles as allowed by the underlying zoning district for the residential building on the property.

Finding: Parking for single-family dwellings is required to be provided at a rate of two spaces per unit, and up to four vehicles are permitted to be parked outdoors on the property. Based on the applicant's submittal, two vehicle parking spaces will be available for guests in an existing driveway which is located behind the house. The driveway is accessed through a shared private alley.

- D.** Special events are not permitted in a short-term rental. Example of special events include, but are not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars.

Finding: The application letter suggests the property will comply with the City's regulations for a short-term rental. As a condition of approval, staff recommends a prohibition on special events.

- E.** Short-term rental units are allowed in any structure established as a permanent residential dwelling including an accessory dwelling unit. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

Finding: The application is for use of the property at 1416 S. Duncan Ave. Staff recommends a condition confirming that no recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

- F. **Exceptions.** Exceptions to the short-term rental standards, except proposals that would exceed the city-wide density maximum, may be granted by the Planning Commission as a conditional use permit.

Finding: Type 2 short-term rentals are subject to a city-wide density cap at 475 units. As of August 7, 2023, the City had issued 392 Type 2 short-term rental business licenses. Granting a conditional use permit for this location would give the applicant the zoning entitlement necessary to apply for a business license, but it would not guarantee approval of a business license.

- G. Short-term rentals must comply with all applicable codes under City Code §118.01 and successfully obtain a business license prior to operation.

Finding: This short-term rental would be subject to all codes in Business Regulations §118.01 that apply to Type 2 short-term rentals in residential zoning districts. Applicable business licensing requirements will be reviewed by staff and confirmed by the applicant at the time of licensing.

- H. Short-term rentals in residential zoning districts may be subject to denial or additional conditions based upon the Planning Commission's findings on the following factors:

1. Adequate parking infrastructure;
2. Adequate adjoining or nearby streets for on-street parking;
3. Frequency or concentration of nearby licensed Type 2 short-term rentals; and
4. Prior zoning or code violations.

Finding: There appears to be adequate parking available to support the use of the property as a short-term rental based on the applicant's submittal. A total of two off-street parking spaces will be available for guests in an existing driveway. On-street parking also appears to be available nearby along Van Buren Avenue. City records indicate that eight other units within a quarter-mile radius of the property have active Type 2 short-term rental business license. Given the high concentration of existing units and planned developments nearby, staff finds the applicant's request for one additional short-term rental is not likely to adversely impact the surrounding neighborhood at this time. No prior zoning or code violations have been reported at this address.

§163.02. AUTHORITY; CONDITIONS; PROCEDURES. (continued)

- (2.) That satisfactory provisions and arrangements have been made concerning the following, where applicable:
 - (a.) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe;

Finding: An existing driveway is available to accommodate vehicular ingress and egress to the subject property. The property also has frontage along a portion of Duncan Avenue which is fully improved with a six-foot-wide sidewalk to accommodate pedestrian access. Staff finds that the proposal to use the property as a short-term rental will not adversely affect traffic flows considering the use of the property would be limited to a maximum of six guests, which would not be out of character with the use of the property for residential purposes.

(b.) Off-street parking and loading areas where required, with particular attention to ingress and egress, economic, noise, glare, or odor effects of the special exception on adjoining properties and properties generally in the district;

Finding: A total of two off-street parking spaces are available in an existing driveway. The short-term rental ordinance limits the number of guest vehicles to the maximum number of vehicles as allowed by the underlying zoning district.

(c.) Refuse and service areas, with particular reference to ingress and egress, and off-street parking and loading;

Finding: The applicant proposes to utilize existing residential trash cart service. Staff recommends that the containers should be screened from public view when not at the curb for residential pick-up.

(d.) Utilities, with reference to locations, availability, and compatibility;

Finding: Utilities are currently available to the property and its use as a short-term rental is not anticipated to impact the provision of utilities.

(e.) Screening and buffering with reference to type, dimensions, and character;

Finding: Staff recommends that residential carts be screened so that they are not visible from the public right-of-way. The applicant states that residential trash carts will be stored behind the house and not visible from the street.

(f.) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;

Finding: Any proposed signage will be subject to Unified Development Code Chapter 174, Signs, and all regulations therein.

(g.) Required yards and other open space; and

Finding: Based on the applicant's submittal and city records, the house is meeting relevant setbacks.

- (h.) General compatibility with adjacent properties and other property in the district.

Finding: Staff finds the proposed use to be compatible with surrounding properties. The property is surrounded by residential uses and short-term rentals are permitted by right in the underlying RMF-24 zoning district. There appears to be adequate parking to accommodate the number of permitted guests and staff does not anticipate any adverse traffic impacts with this request.

- (i.) General compatibility with the goals and intent of the city's adopted land-use, transportation, and other strategic plans.

Finding: Staff finds the proposed use to be somewhat incompatible with the goals and intent of the City's adopted land use, transportation, and other strategic plans since it does not clearly support any of the stated goals in those plans. However, there are safeguards in place that limit how short-term rentals operate to ensure that the City can still meet those goals, including a city-wide density cap and restrictions on the number of units that may be used as a short-term rental in multi-family dwelling complexes.

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

- Business Regulations
 - §118.01 Applicability
- Unified Development Code
 - §161.16 District RMF-24, Residential Multi-Family – Twenty-Four (24) Units Per Acre
 - §163.18 Type 2 Short-Term Rentals in Residential Zoning Districts
- Applicant Request Letter
- Building Floor Plans
- Building Elevations
- Site Plan
- One Mile Map
- Close-Up Map
- Current Land Use Map
- STRs within ¼ Mile Map

118.01 Applicability

- (E) *Short-Term Rentals.* A residential dwelling unit, portion of a dwelling unit, or bedroom within a residential dwelling unit, leased and/or rented to a guest(s), for a period of less than thirty consecutive (30) days.
- (1) *Short-Term Rental, Type 1.* A short-term rental where the principal use of the property remains as a full-time residence. The occupants or owner rent their primary residence as a short-term rental. A copy of the Homestead Tax Credit or long-term lease agreement for the subject property is required to be classified as a Type 1 rental. The occupant or owner must occupy the residence for nine (9) months of the year. Accessory dwelling units (ADUs) as defined in Unified Development Code Chapter 151 shall be considered a Type 1 short-term rental.
 - (2) *Short-Term Rental, Type 2.* A short-term rental that is not occupied by a permanent resident. The owner lists this property full-time as a short-term rental and has no intention of having permanent residents living in the property. A conditional use permit is required for a Type 2 short-term rental in a residential zoning district prior to the city issuing a business license.
 - (3) *License Required.* No dwelling unit in the city shall be used as a short-term rental unless:
 - (a) The owner of the dwelling unit or operator of the short-term rental possess a valid and current business license for the dwelling unit, and fully complies with all legal requirements and duties imposed herein with respect to each and every short-term rental; and
 - (b) The owner has designated an agent, where said agent fully complies with all legal requirements and duties imposed herein with respect to every short-term rental. The owner may serve as their own agent.
 - (c) The owner of the dwelling unit or operator of the short-term rental provides proof of a valid and current homeowners insurance rider policy which fully covers each unit when operated as short-term rental unit.
 - (4) A separate business license shall be required for each dwelling unit used as a short-term rental.
 - (5) Any change in ownership requires a new or amended business license.
 - (6) If any required contact information changes for the associated business license, the person to whom the license was issued shall immediately notify the Development Services Department in writing.
 - (7) *License Application.* The application for a business license shall include at minimum, the following information from applicants:
 - (a) The property owner's information including legal name, mailing address, immediate contact phone number, and immediate contact E-mail address.
 - (b) Information for the dwelling unit subject to the application, inclusive of the physical street address assigned by the city.
 - (c) The type and total number of dwelling units located on the lot of record containing the dwelling unit subject to the application.
 - (d) If the owner is not their own agent, the owner designated agent's information including legal name, mailing address, immediate contact phone number and immediate contact E-mail address.
 - (e) Documentation of approval of a life safety and egress inspection by the City Building Safety Division for the dwelling unit subject to the application.
 - (f) Proof of application for remittance of hotel, motel and restaurant tax to the City of Fayetteville, and verification that all sales, use, and hotel, motel and restaurant taxes are current.
 - (g) Any additional data as deemed necessary or desirable for permit approval by the Development Services Director.
 - (8) *License Renewals.* Business licenses for short-term rentals shall be renewed in accordance with Chapter 118 of the Business Regulations (Business Registry and Licenses).
 - (9) *Legal Duties of License Holders.* An owner possessing a short-term rental license shall comply at all times with the following requirements:
 - (a) *Occupancy.* Short-term rentals shall be subject to, and may not exceed, the occupancy limits approved with the business license.
 - (b) *Advertisements.* A short-term rental shall not be advertised if it violates occupancy, density, safety, and any of the other provisions of the Fayetteville Code. No short-term rental unit shall be advertised prior to having obtained a business license and the business license number shall be included in the advertisement listing.
 - (c) *Information and Posting.* Business licensees shall provide to guests and post conspicuously in the common area of the short-term rental unit the city phone number to report a safety complaint.
 - (10) *Owner or Agent Accessibility.* The property owner shall ensure that they or a designated agent are available at all times during guest occupancy, including nights and weekends, in order to facilitate compliance with this section. For the purposes of these regulations, 'availability' means that the owner or agent is accessible

- by telephone, and, able to be physically present at the short-term rental within three (3) hours of being contacted.
- (11) *Guest Records.* The owner shall maintain summary guest registration records, which shall contain the actual dates of occupancy, total number of guests per party per stay, and the rate(s) charged, but shall not contain any personally identifiable information about guests. Such records shall be maintained for three (3) years and shall be provided to the City upon request.
 - (12) *Health and Safety.* The owner shall ensure that each dwelling unit governed by this section complies with the applicable provisions of the Unified Development Code Chapter 173, Building Regulations.
 - (13) *Criminal Activity.* The owner shall timely report any known or reasonably suspected criminal activity by a guest to the Fayetteville Police Department within twelve (12) hours maximum.
 - (14) *Taxes and Fees.* Except for those instances in which a hosting platform bears the responsibility for collecting and remitting taxes and fees applicable to short-term rentals, the property owner shall timely remit in full Fayetteville Hotel, Motel and Restaurant tax and other applicable local, state, and federal taxes and city fees owed in connection with any short-term rental. The failure of a hosting platform to collect and remit taxes and fees shall not relieve an owner of the obligation to pay taxes and fees owed pursuant to this section.
 - (15) *Authorization to Occupy, Use, and Operate.* Authorization to operate a short-term rental may be granted by the Development Services Director through the issuance of a City of Fayetteville Business Registry and License (Business License).
 - (16) *Density For Type 2 Short-Term Rentals.* A city-wide density cap of 475 dwelling units may be Type 2 rentals. A conditional use permit may not permit:
 - (a) More Type 2 short-term rentals than what is allowed by the city-wide density cap.
 - (b) More than 10% or a single unit whichever is greater; of total dwelling units as Type 2 rentals within a multi-family dwelling complex.
 - (c) Individual 2-, 3- and 4-family buildings that are owned by the same person or entity and are not a part of a multi-family complex shall have no more than one (1) Type 2 short-term rental unit per building complex.
 - (d) Where attached residential units are held separately through condominium association, horizontal property regime, fee simple, or similar ownership structure, no cap shall be applied to buildings with attached residential dwellings. Structures of attached residential dwellings where applicants seek more than 10% of total units for licensing as Type 2 rentals shall be evaluated by the Building Safety Director and/or Fire Marshal for adequate fire protection as defined by the adopted Arkansas Fire Prevention Code. Where inadequate fire protection is identified, improvements may be required prior to issuance of a business license.
 - (17) *Suspension and Revocation.* If the Development Services Director has reason to believe that any of the grounds specified in §118.03(A) of the Fayetteville Code exist, or that any rental unit was rented for less than one (1) full night, or to more than one (1) part of guests for the same period of time, or otherwise failed to comply with all terms and conditions of this section, the Development Services Director may suspend or revoke the short-term rental's business license pursuant to the procedures detailed in §118.03 and in §118.04 of the Fayetteville Code.
 - (18) Short-term rentals must comply with all applicable codes under Unified Development Code §163.18 and § 164.26 successfully obtain a business license prior to operation.

161.16 District RMF-24, Residential Multi-Family - Twenty-Four (24) Units Per Acre

(A) *Purpose.* The RMF-24 Multi-family Residential District is designed to permit and encourage the developing of a variety of dwelling types in suitable environments in a variety of densities.

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three (3) and four (4) family dwellings
Unit 26	Multi-family dwellings
Unit 41	Accessory dwellings
Unit 44	Cluster Housing Development
Unit 46	Short-term rentals

(2) *Conditional Uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 11	Manufactured home park
Unit 12a	Limited business
Unit 24	Home occupations
Unit 25	Professional offices
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	24 or less
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(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

Manufactured home park	100 feet
Lot within a Manufactured home park	50 feet
Single-family	35 feet
Two-family	35 feet
Three or more	70 feet
Professional offices	100 feet

(2) *Lot Area Minimum.*

Manufactured home park	3 acres
Lot within a mobile home park	4,200 square feet
Townhouses: Individual lot	2,000 square feet
Single-family	3,000 square feet
Two (2) family	4,000 square feet
Three (3) or more	7,000 square feet
Fraternity or Sorority	2 acres
Professional offices	1 acres

(3) *Land Area Per Dwelling Unit.*

Manufactured Home	3,000 square feet
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(E) *Setback Requirements.*

Front	Side Other Uses	Side Single & Two (2) Family	Rear Other Uses	Rear Single Family
A build-to zone that is located between the front property line and a line 25 feet from the front property line.	8 feet	5 feet	20 feet	5 feet

(F) *Building Height Regulations.*

Building Height Maximum	2 stories/3 stories/5 stories*
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* A building or a portion of a building that is located between 0 and 10 feet from the front property line or any master street plan right-of-way line shall have a maximum height of two (2) stories, between 10—20 feet from the master street plan right-of-way a maximum height of three (3) stories and buildings or portions of the building set back greater than 20 feet from the master street plan right-of-way shall have a maximum height of 5 stories.

If a building exceeds the height of two (2) stories, the portion of the building that exceeds two (2) stories shall have an additional setback from any side boundary line of an adjacent single family district. The amount of additional setback for the portion of the building over two (2) stories shall be equal to the difference between the total height of that portion of the building, and two (2) stories.

- (G) *Building Area.* The area occupied by all buildings shall not exceed 50% of the total lot area. Accessory ground mounted solar energy systems shall not be considered buildings.
- (H) *Minimum Buildable Street Frontage.* 50% of the lot width.

163.18 Type 2 Short-Term Rentals in Residential Zoning Districts

- (A) *Residential Zoning Districts.* Type 2 short-term rentals may be permitted as a conditional use in the following residential zoning districts:

- 1) R-A
- 2) RSF-.5
- 3) RSF-1
- 4) RSF-2
- 5) RSF-4
- 6) RSF-7
- 7) RSF-8
- 8) RSF-18
- 9) RI-12
- 10) RI-U
- 11) RMF-6
- 12) RMF-12
- 13) RMF-18
- 14) RMF-24
- 15) RMF-40
- 16) NC

Short-term rentals may be permitted by right or by conditional use in planned zoning districts subject to the zoning regulations enacted by the City Council for each district.

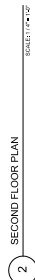
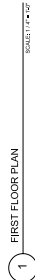
Short-term rentals in non-residential zoning districts, mixed use zoning districts, or other zoning districts not listed above are not required to apply for a conditional use permit.

- (B) *Occupancy.* Maximum of two (2) people per bedroom, plus two (2), for the entire unit when operated as a short-term rental.
- (C) *Parking.* Parking is limited to the maximum number of vehicles as allowed by the underlying zoning district for the residential building on the property.
- (D) Special events are not permitted in a short-term rental. Example of special events include, but are not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars.
- (E) Short-term rental units are allowed in any structure established as a permanent residential dwelling including an accessory dwelling unit. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.
- (F) *Exceptions.* Exceptions to the short-term rental standards, except proposals that would exceed the city-wide density maximum, may be granted by the Planning Commission as a conditional use permit.
- (G) Short-term rentals must comply with all applicable codes under City Code §118.01 and successfully obtain a business license prior to operation.
- (H) Short-term rentals in residential zoning districts may be subject to denial or additional conditions based upon the Planning Commission's findings on the following factors:
- 1) Adequate parking infrastructure;
 - 2) Adequate adjoining or nearby streets for on-street parking;
 - 3) Frequency or concentration of nearby licensed Type 2 short-term rentals; and
 - 4) Prior zoning or code violations

Request Letter for the City of Fayetteville

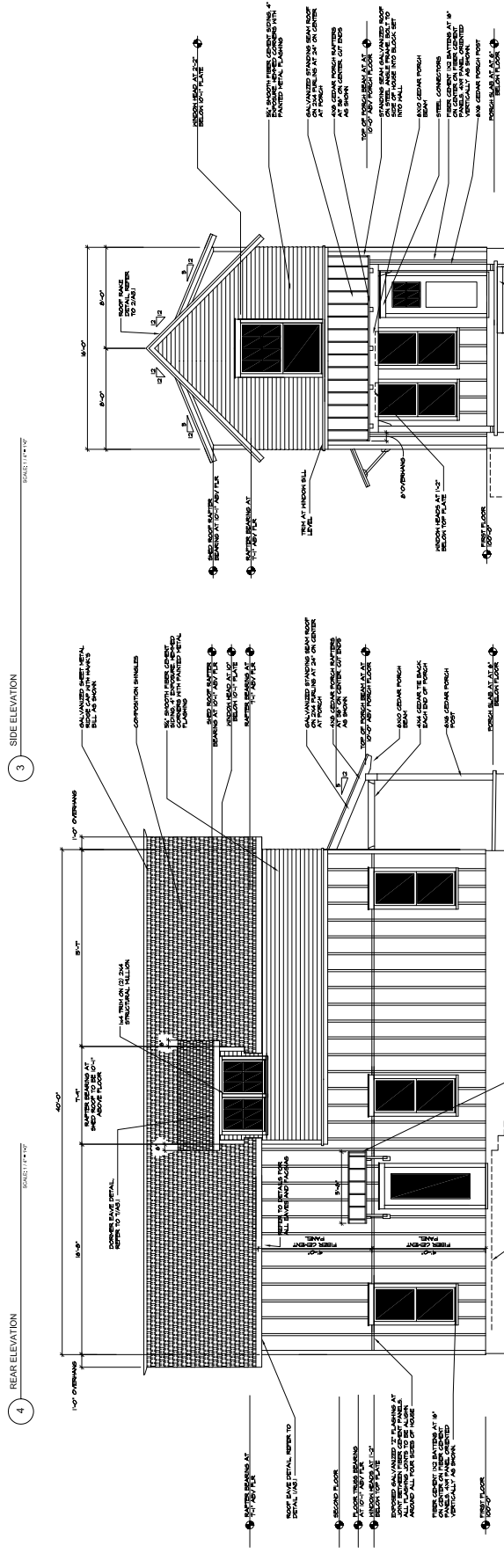
This is a letter to request for a business license in the city of FAYETTEVILLE to operate a short term rental dwelling.

The building is approximately 1280 square feet in size, with an exterior color of white shiplap siding and black trim. There are 2 off-street parking spots in the rear of the property. The property has exterior lighting on the front and rear as well as the street side of the house. Currently there is no fencing to obstruct from the adjacent property. As for ingress and egress of the property there are two, one on to South Duncan Ave. and the other on Van Buren Ave. We have obtained trash service with the city and the 1 and only trash can will be placed in the rear of the property out of sight. The property will be regularly serviced with a lawn company and a management company as well to take care of the day to day needs both for the neighbors as well as visitors to the city.



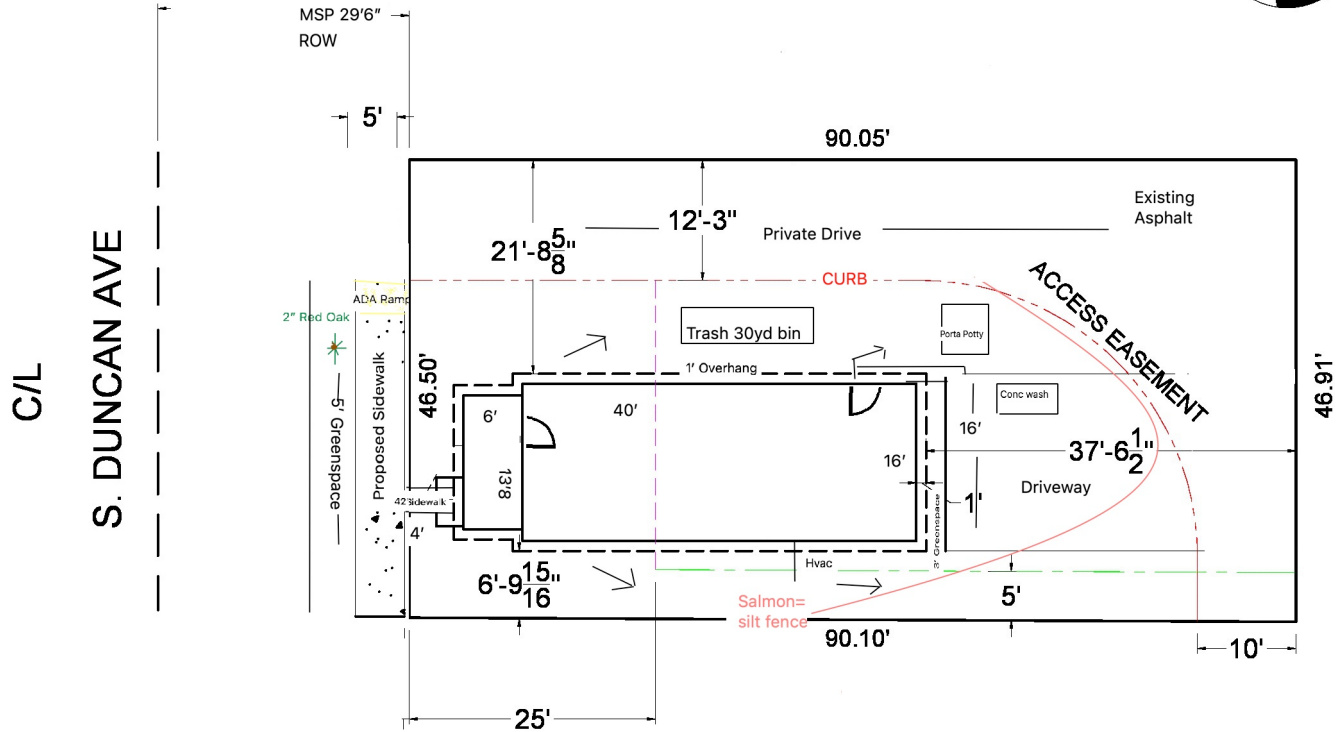
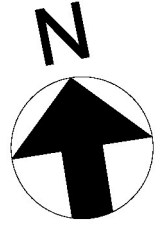
- [illegible]

BUILDING AREA TABLE	
FIRST FLOOR	640 SF
SECOND FLOOR	640 SF
TOTAL HEATED SPACE	1280 SF
FRONT PORCH	82 SF
BACK PORCH	0 SF
SQUARE FOOTAGE IS CALCULATED TO THE OUTSIDE FACE OF EXTERIOR WALLS.	



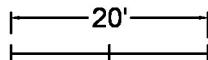


APPROVED



1416 S. DUNCAN AVE

SCALE 1"=20'



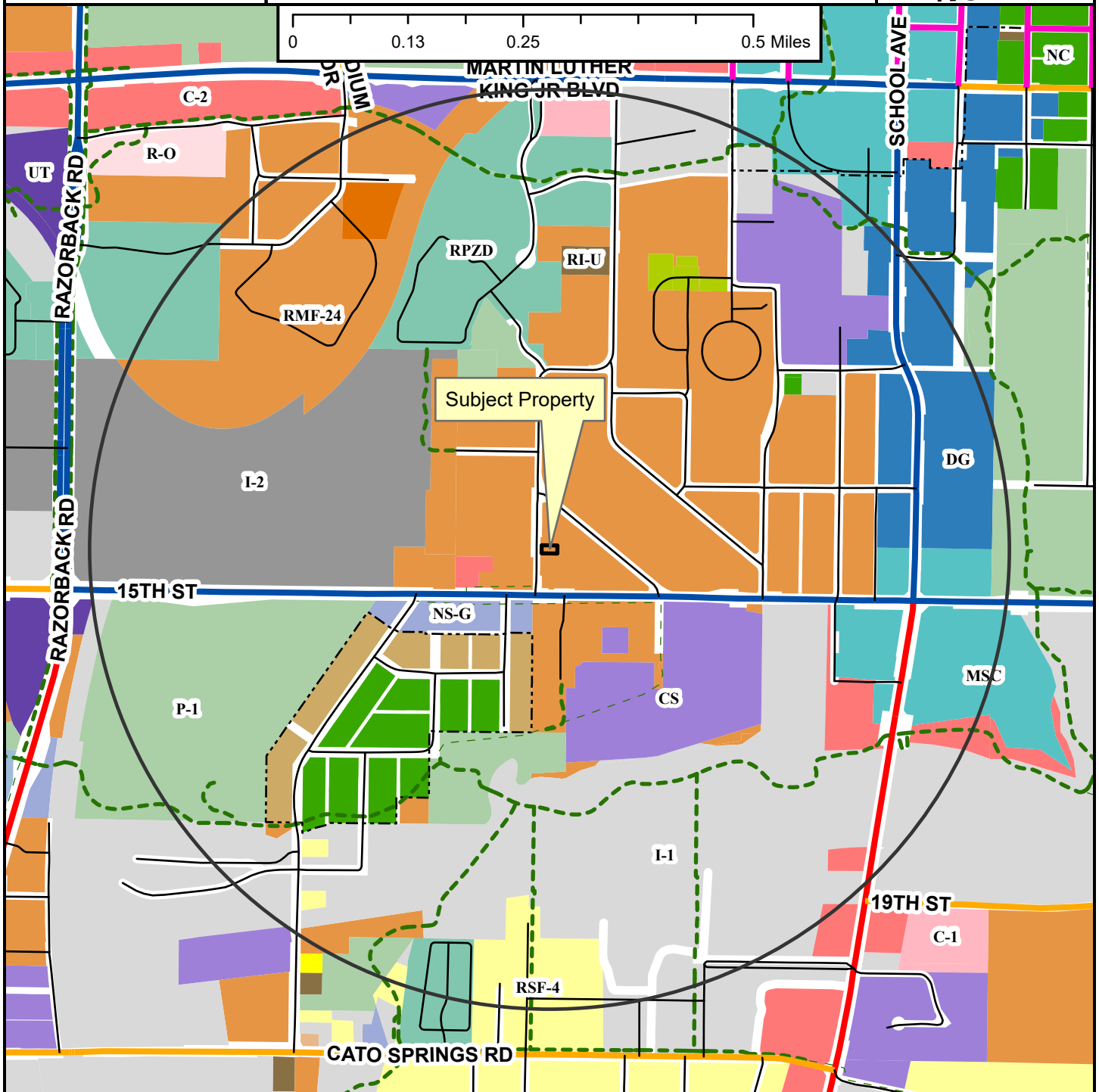
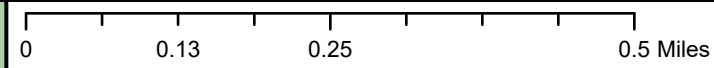
PROPERTY LINE
EXT. FOUNDATION LINE
BUILD-TO LINE
BUILDING SETBACK
EASEMENT

Drawn by:
Katey Howard
4/7/22

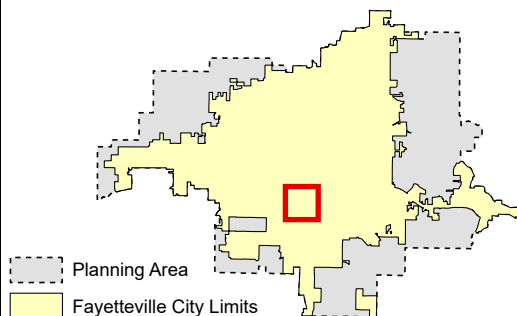
CUP-2023-0080

1416 S. DUNCAN AVE

One Mile View



- Regional Link
- Neighborhood Link
- Regional Link - High Activity
- Urban Center
- Unclassified
- Alley
- Residential Link
- Shared-Use Paved Trail
- Trail (Proposed)
- Design Overlay District
- Fayetteville City Limits
- Planning Area

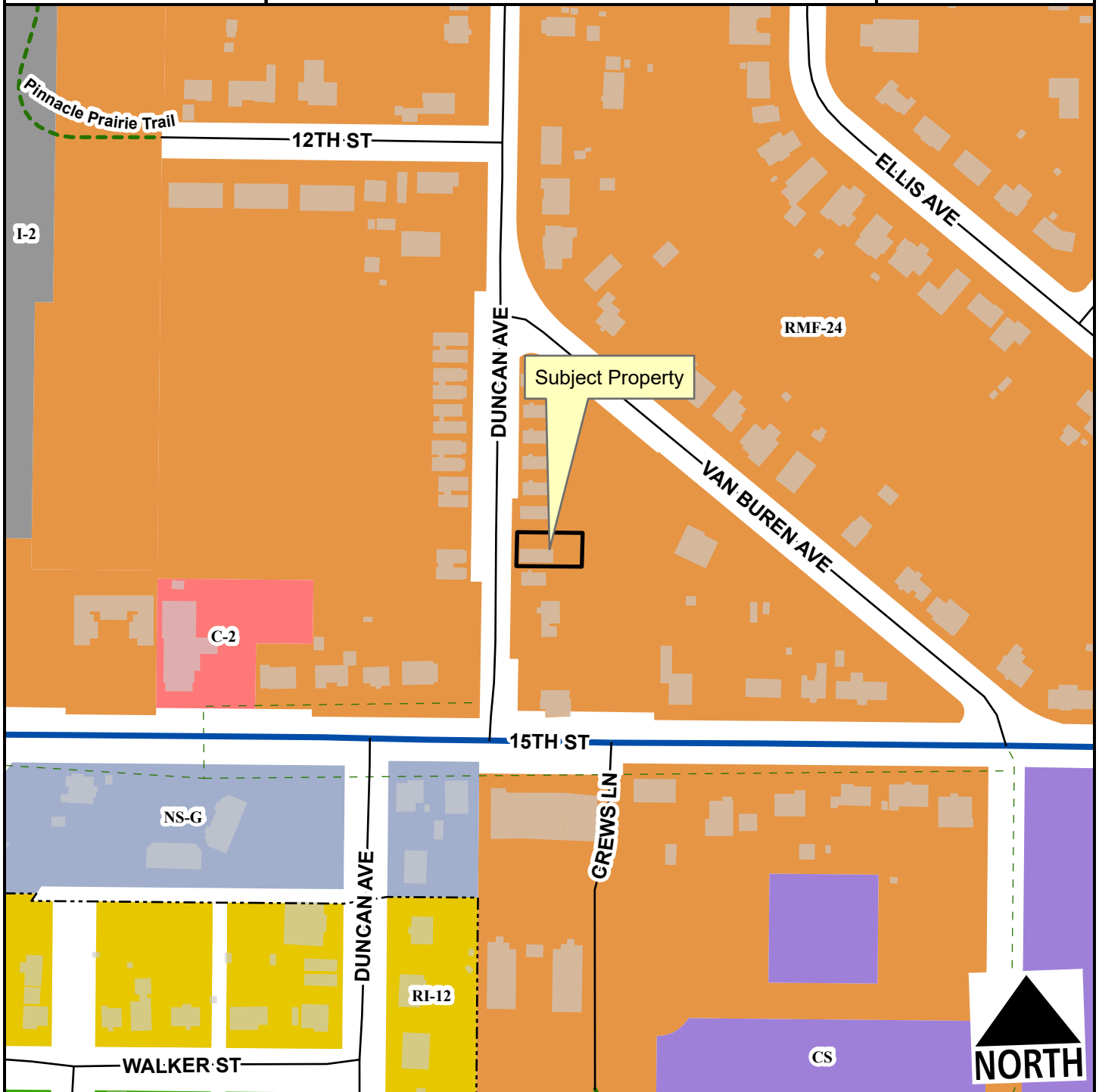


- Zoning**
- RESIDENTIAL SINGLE-FAMILY**
- NS-G
 - RI-U
 - RI-12
 - NS-L
 - Residential-Agricultural
 - RSF-5
 - RSF-1
 - RSF-2
 - RSF-4
 - RSF-7
 - RSF-8
 - RSF-18
- RESIDENTIAL MULTI-FAMILY**
- RMF-6
 - RMF-12
 - RMF-13
 - RMF-24
 - RMF-40
- INDUSTRIAL**
- I-1 Heavy Commercial and Light Industrial
- EXTRACTION**
- E-1
- COMMERCIAL**
- Residential-Office
 - C-1
 - C-2
 - C-3
- FORM BASED DISTRICTS**
- Downtown Core
 - Urban Thoroughfare
 - Main Street Center
 - Downtown General
 - Community Services
 - Neighborhood Services
 - Neighborhood Conservation
- PLANNED ZONING DISTRICTS**
- Commercial, Industrial, Residential
 - INSTITUTIONAL
 - P-1

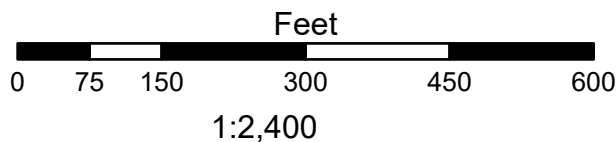
CUP-2023-0080

1416 S. DUNCAN AVE

Close Up View



- Regional Link - High Activity
- Unclassified
- Residential Link
- Planning Area
- Fayetteville City Limits
- Shared-Use Paved Trail
- Trail (Proposed)
- Design Overlay District



- RI-12
- RMF-24
- I-2 General Industrial
- C-2
- Community Services
- Neighborhood Services - Gen.
- Neighborhood Conservation

CUP-2023-0080

1416 S. DUNCAN AVE

Current Land Use



- Regional Link - High Activity
- Unclassified
- Residential Link
- Trail (Proposed)
- Planning Area
- Fayetteville City Limits
- Design Overlay District



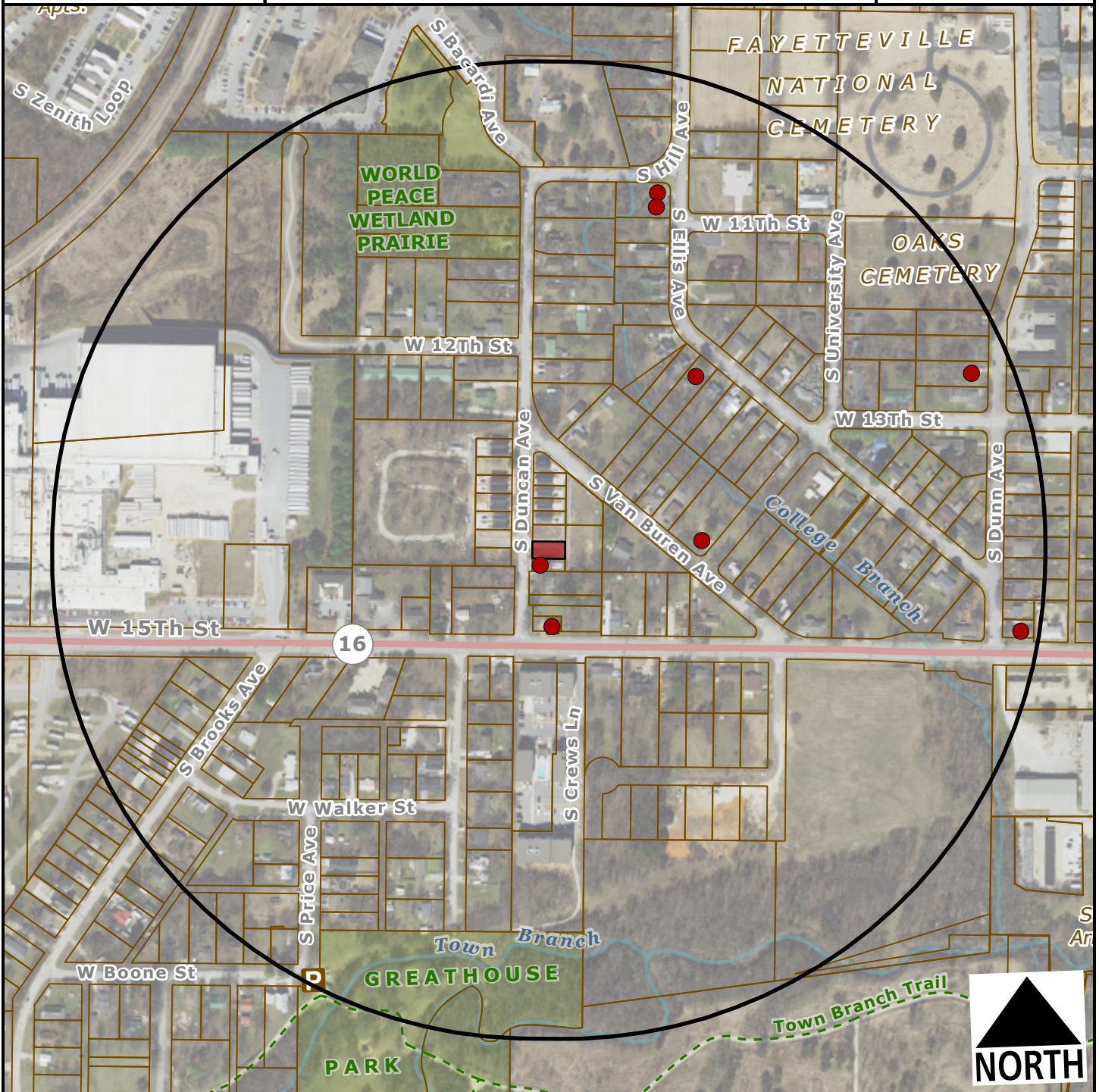
FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CUP-2023-0080

1416 S. DUNCAN AVE

STRs Within 1/4 Mile



- Subject Property
- Short Term Rental, Type 2



Number of STR Licenses

Total 8



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Senior Planner

MEETING DATE: August 14, 2023

SUBJECT: **CUP-2023-0082: Conditional Use Permit (281 W. ASH ST. UNIT: 4/KING, 367):** Submitted by JEFF KING for property located at 281 W. ASH ST. UNIT: 4. The property is zoned RMF-24, RESIDENTIAL MULTI-FAMILY, 24 UNITS PER ACRE and contains approximately 0.79 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:

Staff recommends approval of **CUP-2023-0082** with conditions.

RECOMMENDED MOTION:

*"I move to approve **CUP-2023-0082**, determining:*

- In favor of compatibility with adjacent properties, and*
- In favor of all other conditions as recommended by staff."*

BACKGROUND:

The subject property is located at the southeast corner of Gregg Avenue and Ash Street. The property contains 0.79 acres and is developed with a 12-unit multi-family residential development referred to as the Townhomes on Gregg, which was built earlier this year. All units in the development are held separately through a horizontal property regime. On April 20, 2021, City Council adopted an ordinance to regulate short-term rentals operating within its limits. On December 20, 2022, City Council amended the ordinance to enact new requirements for short-term rentals, and on July 6, 2023, City Council amended the Type 2 short-term rental density cap from 2% of all dwelling units to 475 units city wide. This report reflects those new changes for consideration. Surrounding land uses and zoning are depicted in *Table 1*.

Table 1:
Surrounding Land Uses and Zoning

Direction	Land Use	Zoning
North	Multi-Family Residential	RMF-24, Residential Multi-Family, 24 Units per Acre
South	Multi-Family Residential	RMF-24, Residential Multi-Family, 24 Units per Acre
East	Single-Family Residential	RSF-4, Residential Single-Family, 4 Units per Acre
West	Mini-Storage	I-1, Heavy Commercial and Light Industrial

City Plan 2040 Future Land Use Designation: **City Neighborhood**

Proposal: The applicant requests conditional use permit approval to use the property as a Type 2 short-term rental, which are those not occupied by a permanent resident. Type 2 short-term rentals are subject to density limitations, including a city-wide cap of 475 units, and restrictions on the number of units that may be used as a short-term rental in multi-family dwelling complexes.

Public Comment: Staff has not received any public comment regarding this request.

RECOMMENDATION: Staff recommends approval of **CUP-2023-0082** with the following conditions:

Conditions of Approval:

1. **Planning Commission determination of compatibility.** *Staff finds the proposed short-term rental to be compatible based on the findings contained herein;*
2. Approval of the conditional use permit does not ensure approval of a business license application. The applicant must still be able to comply with all other applicable requirements in city code;
3. Per UDC §166.20, Expiration of Approved Plans and Permits, a business license must be obtained within one year of conditional use permit approval;
4. Per ordinance, the number of occupants is limited to a maximum of two people per bedroom, plus two, for the entire unit when the property is operated as a short-term rental;
5. Special events including, but not limited to, weddings, receptions, anniversaries, private parties, fundraisers, and business seminars are prohibited from occurring in the short-term rental;
6. No recreational vehicle, trailer, other vehicle, or structure not classified as a permanent residential dwelling may be used as a short-term rental;
7. All trash receptacles shall be screened from view of the right-of-way;
8. All outdoor lighting shall meet requirements as outlined in UDC Chapter 176, Outdoor Lighting;
9. Any signage shall meet the requirements as outlined in UDC Chapter 174, Signs; and
10. Per Business Regulations §120.02(A), the owners of only short-term rentals shall be required to designate and register their landlord's representative into the Landlord's Representative Registry.

PLANNING COMMISSION ACTION:			
Required	<u>YES</u>		
Date: <u>August 14, 2023</u>	☐ Tabled	☐ Approved	☐ Denied
Motion:			
Second:			
Vote:			

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

1. Hear and decide only such special exemptions as it is specifically authorized to pass on by the terms of this chapter;
2. Decide such questions as are involved in determining whether a conditional use should be granted; and,
3. Grant a conditional use with such conditions and safeguards as are appropriate under this chapter; or
4. Deny a conditional use when not in harmony with the purpose and intent of this chapter.

C. Procedures. A conditional use shall not be granted by the Planning Commission unless and until:

1. A written application for a conditional use is submitted indicating the section of this chapter under which the conditional use is sought and stating the grounds on which it is requested.

Finding: The applicant has submitted a written application requesting a conditional use permit for a Type 2 short-term rental in RMF-24 zoning.

2. The applicant shall pay a filing fee as required under Chapter 159 to cover the cost of expenses incurred in connection with processing such application.

Finding: The applicant has paid the required filing fee.

3. The Planning Commission shall make the following written findings before a conditional use shall be issued:
 - (a.) That it is empowered under the section of this chapter described in the application to grant the conditional use; and

Finding: The Planning Commission is empowered under Business Regulations §118.01(E)(2) to grant the requested conditional use permit.

- (b.) That the granting of the conditional use will not adversely affect the public interest.

Finding: Staff finds that granting the requested conditional use is unlikely to adversely affect the public interest given the applicable business license requirements, including a required building safety inspection, and applicable density caps on Type 2 short-term rentals.

- (c.) The Planning Commission shall certify:
 - (1.) Compliance with the specific rules governing individual conditional uses; and

Finding: There are specific rules governing short-term rentals, as follows:

§163.18. SHORT-TERM RENTALS.

- A. Residential Zoning Districts.** Type 2 short-term rentals may be permitted as a conditional use in the following residential zoning districts: R-A, RSF-.5, RSF-1, RSF-2, RSF-4, RSF-7, RSF-8, RSF-18, RI-12, RI-U, RMF-6, RMF-12, RMF-18, RMF-24, RMF-40, and NC. Short-term rentals may be permitted by right or by conditional use in planned zoning districts subject to the zoning regulations enacted by the City Council for each district. Short-term rentals in non-residential zoning districts, mixed use zoning districts, or other zoning districts not listed above are not required to apply for a conditional use permit.

Finding: The request is to operate a Type 2 short-term rental in RMF-24 zoning. Since RMF-24 is a residential zoning district, a conditional use permit is required.

- B. Occupancy.** Maximum of two (2) people per bedroom, plus two (2), for the entire unit when operated as a short-term rental.

Finding: According to the applicant's request letter and city records, this unit contains two bedrooms, which would limit occupancy in this short-term rental to a maximum of six guests per ordinance. Occupancy limitations are confirmed by the applicant during licensing.

- C. Parking.** Parking is limited to the maximum number of vehicles as allowed by the underlying zoning district for the residential building on the property.

Finding: Parking for multi-family dwellings is required to be provided at a rate of one space per bedroom. Since this unit contains two bedrooms, two parking spaces are required. City records indicate that this development contains a total of 24 bedrooms and 24 parking spaces, with some in parking lots and others in attached garages. The applicant stated in their request letter that there are four spaces reserved for this unit with two in a parking lot and two in an attached garage. They also stated that there are nine other spaces available for guests in the shared parking lot. However, the master deed for the development states that the POA has the authority to designate specific parking spaces in the parking lot for the use of individual units, so those spaces may become reserved in the future.

- D.** Special events are not permitted in a short-term rental. Example of special events include, but are not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars.

Finding: The application letter suggests the property will comply with the City's regulations for a short-term rental. As a condition of approval, staff recommends a prohibition on special events.

- E.** Short-term rental units are allowed in any structure established as a permanent residential dwelling including an accessory dwelling unit. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

Finding: The application is for use of the property at 281 W. Ash St. Unit: 4. Staff recommends a condition confirming that no recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

- F. Exceptions.** Exceptions to the short-term rental standards, except proposals that would exceed the city-wide density maximum, may be granted by the Planning Commission as a conditional use permit.

Finding: Type 2 short-term rentals are subject to a city-wide density cap at 475 units. As of August 7, 2023, the City had issued 392 Type 2 short-term rental business licenses. Granting a conditional use permit for this location would give the applicant the zoning entitlement necessary to apply for a business license, but it would not guarantee approval of a business license.

- G.** Short-term rentals must comply with all applicable codes under City Code §118.01 and successfully obtain a business license prior to operation.

Finding: This short-term rental would be subject to all codes in Business Regulations §118.01 that apply to Type 2 short-term rentals in residential zoning districts. Applicable business licensing requirements will be reviewed by staff and confirmed by the applicant at the time of licensing.

- H.** Short-term rentals in residential zoning districts may be subject to denial or additional conditions based upon the Planning Commission's findings on the following factors:

1. Adequate parking infrastructure;
2. Adequate adjoining or nearby streets for on-street parking;
3. Frequency or concentration of nearby licensed Type 2 short-term rentals; and
4. Prior zoning or code violations.

Finding: There appears to be adequate parking available to support the use of the property as a short-term rental based on the applicant's submittal. The applicant has indicated that there are four parking spaces reserved for this unit with additional spaces available on site in a shared parking lot. On-street parking also appears to be available nearby along Ash Street. City records indicate that nine other units within a quarter-mile radius of the property have active Type 2 short-term rental business license and, to date, the City has not received any other requests for short-term rentals in the Townhomes at Gregg development. Given the high concentration of existing units and the absence of other short-term rentals in this development, staff finds that the applicant's request to operate a Type 2 short-term rental is not likely to adversely impact the surrounding neighborhood at this time. City records indicate that two health and sanitation violations were reported at this address in 2021 for junk and overgrown grass, prior to the development of this residence and current ownership.

§163.02. AUTHORITY; CONDITIONS; PROCEDURES. (continued)

(2.) That satisfactory provisions and arrangements have been made concerning the following, where applicable:

(a.) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe;

Finding: A shared private driveway with access onto Ash Street is available to accommodate vehicular ingress and egress to the subject property. The property also has frontage along a portion of Ash Street which is fully improved with a six-foot-wide sidewalk to accommodate pedestrian access. Staff finds that the proposed use of the property as a short-term rental will not adversely affect traffic flows considering the use of the property would be limited to a maximum of six guests, which would not be out of character with the use of the property for residential purposes.

(b.) Off-street parking and loading areas where required, with particular attention to ingress and egress, economic, noise, glare, or odor effects of the special exception on adjoining properties and properties generally in the district;

Finding: The applicant has stated that there are four parking spots reserved for this unit with two in a parking lot and two in an attached garage. The short-term rental ordinance limits the number of guest vehicles to the maximum number of vehicles as allowed by the underlying zoning district.

(c.) Refuse and service areas, with particular reference to ingress and egress, and off-street parking and loading;

Finding: The applicant proposes to utilize existing dumpster services. One dumpster is currently available on site which is screened by a brick enclosure. Staff recommends a condition confirming that all trash be placed in the existing dumpster and that the container remain screened from view of the right-of-way.

(d.) Utilities, with reference to locations, availability, and compatibility;

Finding: Utilities are currently available to the property and its use as a short-term rental is not anticipated to impact the provision of utilities.

(e.) Screening and buffering with reference to type, dimensions, and character;

Finding: Staff recommends that dumpsters remain screened so that they are not visible from the public right-of-way.

- (f.) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;

Finding: Any proposed signage will be subject to Unified Development Code Chapter 174, Signs, and all regulations therein.

- (g.) Required yards and other open space; and

Finding: Based on the applicant's submittal and city records, this unit is meeting relevant setbacks.

- (h.) General compatibility with adjacent properties and other property in the district.

Finding: Staff finds the proposed use to be compatible with surrounding properties. The property is surrounded by residential uses and short-term rentals are permitted by right in the underlying RMF-24 zoning district. There appears to be adequate parking to accommodate the number of permitted guests and staff does not anticipate any adverse traffic impacts with this request.

- (i.) General compatibility with the goals and intent of the city's adopted land-use, transportation, and other strategic plans.

Finding: Staff finds the proposed use to be somewhat incompatible with the goals and intent of the City's adopted land use, transportation, and other strategic plans, since it does not clearly support any of the stated goals in those plans. However, there are safeguards in place that limit how short-term rentals operate to ensure that the City can still meet those goals, including a city-wide density cap and restrictions on the number of units that may be used as a short-term rental in multi-family dwelling complexes.

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

- Business Regulations
 - §118.01 Applicability
- Unified Development Code
 - §161.16 District RMF-24, Residential Multi-Family – Twenty-Four (24) Units Per Acre
 - §163.18 Type 2 Short-Term Rentals in Residential Zoning Districts
- Applicant Request Letter
- Building Floor Plans
- Building Elevations
- Site Plan
- One Mile Map
- Close-Up Map
- Current Land Use Map
- STRs within ¼ Mile Map

118.01 Applicability

- (E) *Short-Term Rentals.* A residential dwelling unit, portion of a dwelling unit, or bedroom within a residential dwelling unit, leased and/or rented to a guest(s), for a period of less than thirty consecutive (30) days.
- (1) *Short-Term Rental, Type 1.* A short-term rental where the principal use of the property remains as a full-time residence. The occupants or owner rent their primary residence as a short-term rental. A copy of the Homestead Tax Credit or long-term lease agreement for the subject property is required to be classified as a Type 1 rental. The occupant or owner must occupy the residence for nine (9) months of the year. Accessory dwelling units (ADUs) as defined in Unified Development Code Chapter 151 shall be considered a Type 1 short-term rental.
 - (2) *Short-Term Rental, Type 2.* A short-term rental that is not occupied by a permanent resident. The owner lists this property full-time as a short-term rental and has no intention of having permanent residents living in the property. A conditional use permit is required for a Type 2 short-term rental in a residential zoning district prior to the city issuing a business license.
 - (3) *License Required.* No dwelling unit in the city shall be used as a short-term rental unless:
 - (a) The owner of the dwelling unit or operator of the short-term rental possess a valid and current business license for the dwelling unit, and fully complies with all legal requirements and duties imposed herein with respect to each and every short-term rental; and
 - (b) The owner has designated an agent, where said agent fully complies with all legal requirements and duties imposed herein with respect to every short-term rental. The owner may serve as their own agent.
 - (c) The owner of the dwelling unit or operator of the short-term rental provides proof of a valid and current homeowners insurance rider policy which fully covers each unit when operated as short-term rental unit.
 - (4) A separate business license shall be required for each dwelling unit used as a short-term rental.
 - (5) Any change in ownership requires a new or amended business license.
 - (6) If any required contact information changes for the associated business license, the person to whom the license was issued shall immediately notify the Development Services Department in writing.
 - (7) *License Application.* The application for a business license shall include at minimum, the following information from applicants:
 - (a) The property owner's information including legal name, mailing address, immediate contact phone number, and immediate contact E-mail address.
 - (b) Information for the dwelling unit subject to the application, inclusive of the physical street address assigned by the city.
 - (c) The type and total number of dwelling units located on the lot of record containing the dwelling unit subject to the application.
 - (d) If the owner is not their own agent, the owner designated agent's information including legal name, mailing address, immediate contact phone number and immediate contact E-mail address.
 - (e) Documentation of approval of a life safety and egress inspection by the City Building Safety Division for the dwelling unit subject to the application.
 - (f) Proof of application for remittance of hotel, motel and restaurant tax to the City of Fayetteville, and verification that all sales, use, and hotel, motel and restaurant taxes are current.
 - (g) Any additional data as deemed necessary or desirable for permit approval by the Development Services Director.
 - (8) *License Renewals.* Business licenses for short-term rentals shall be renewed in accordance with Chapter 118 of the Business Regulations (Business Registry and Licenses).
 - (9) *Legal Duties of License Holders.* An owner possessing a short-term rental license shall comply at all times with the following requirements:
 - (a) *Occupancy.* Short-term rentals shall be subject to, and may not exceed, the occupancy limits approved with the business license.
 - (b) *Advertisements.* A short-term rental shall not be advertised if it violates occupancy, density, safety, and any of the other provisions of the Fayetteville Code. No short-term rental unit shall be advertised prior to having obtained a business license and the business license number shall be included in the advertisement listing.
 - (c) *Information and Posting.* Business licensees shall provide to guests and post conspicuously in the common area of the short-term rental unit the city phone number to report a safety complaint.
 - (10) *Owner or Agent Accessibility.* The property owner shall ensure that they or a designated agent are available at all times during guest occupancy, including nights and weekends, in order to facilitate compliance with this section. For the purposes of these regulations, 'availability' means that the owner or agent is accessible

- by telephone, and, able to be physically present at the short-term rental within three (3) hours of being contacted.
- (11) *Guest Records.* The owner shall maintain summary guest registration records, which shall contain the actual dates of occupancy, total number of guests per party per stay, and the rate(s) charged, but shall not contain any personally identifiable information about guests. Such records shall be maintained for three (3) years and shall be provided to the City upon request.
 - (12) *Health and Safety.* The owner shall ensure that each dwelling unit governed by this section complies with the applicable provisions of the Unified Development Code Chapter 173, Building Regulations.
 - (13) *Criminal Activity.* The owner shall timely report any known or reasonably suspected criminal activity by a guest to the Fayetteville Police Department within twelve (12) hours maximum.
 - (14) *Taxes and Fees.* Except for those instances in which a hosting platform bears the responsibility for collecting and remitting taxes and fees applicable to short-term rentals, the property owner shall timely remit in full Fayetteville Hotel, Motel and Restaurant tax and other applicable local, state, and federal taxes and city fees owed in connection with any short-term rental. The failure of a hosting platform to collect and remit taxes and fees shall not relieve an owner of the obligation to pay taxes and fees owed pursuant to this section.
 - (15) *Authorization to Occupy, Use, and Operate.* Authorization to operate a short-term rental may be granted by the Development Services Director through the issuance of a City of Fayetteville Business Registry and License (Business License).
 - (16) *Density For Type 2 Short-Term Rentals.* A city-wide density cap of 475 dwelling units may be Type 2 rentals. A conditional use permit may not permit:
 - (a) More Type 2 short-term rentals than what is allowed by the city-wide density cap.
 - (b) More than 10% or a single unit whichever is greater; of total dwelling units as Type 2 rentals within a multi-family dwelling complex.
 - (c) Individual 2-, 3- and 4-family buildings that are owned by the same person or entity and are not a part of a multi-family complex shall have no more than one (1) Type 2 short-term rental unit per building complex.
 - (d) Where attached residential units are held separately through condominium association, horizontal property regime, fee simple, or similar ownership structure, no cap shall be applied to buildings with attached residential dwellings. Structures of attached residential dwellings where applicants seek more than 10% of total units for licensing as Type 2 rentals shall be evaluated by the Building Safety Director and/or Fire Marshal for adequate fire protection as defined by the adopted Arkansas Fire Prevention Code. Where inadequate fire protection is identified, improvements may be required prior to issuance of a business license.
 - (17) *Suspension and Revocation.* If the Development Services Director has reason to believe that any of the grounds specified in §118.03(A) of the Fayetteville Code exist, or that any rental unit was rented for less than one (1) full night, or to more than one (1) part of guests for the same period of time, or otherwise failed to comply with all terms and conditions of this section, the Development Services Director may suspend or revoke the short-term rental's business license pursuant to the procedures detailed in §118.03 and in §118.04 of the Fayetteville Code.
 - (18) Short-term rentals must comply with all applicable codes under Unified Development Code §163.18 and § 164.26 successfully obtain a business license prior to operation.

161.16 District RMF-24, Residential Multi-Family - Twenty-Four (24) Units Per Acre

(A) *Purpose.* The RMF-24 Multi-family Residential District is designed to permit and encourage the developing of a variety of dwelling types in suitable environments in a variety of densities.

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three (3) and four (4) family dwellings
Unit 26	Multi-family dwellings
Unit 41	Accessory dwellings
Unit 44	Cluster Housing Development
Unit 46	Short-term rentals

(2) *Conditional Uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 11	Manufactured home park
Unit 12a	Limited business
Unit 24	Home occupations
Unit 25	Professional offices
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	24 or less
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(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

Manufactured home park	100 feet
Lot within a Manufactured home park	50 feet
Single-family	35 feet
Two-family	35 feet
Three or more	70 feet
Professional offices	100 feet

(2) *Lot Area Minimum.*

Manufactured home park	3 acres
Lot within a mobile home park	4,200 square feet
Townhouses: Individual lot	2,000 square feet
Single-family	3,000 square feet
Two (2) family	4,000 square feet
Three (3) or more	7,000 square feet
Fraternity or Sorority	2 acres
Professional offices	1 acres

(3) *Land Area Per Dwelling Unit.*

Manufactured Home	3,000 square feet
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(E) *Setback Requirements.*

Front	Side Other Uses	Side Single & Two (2) Family	Rear Other Uses	Rear Single Family
A build-to zone that is located between the front property line and a line 25 feet from the front property line.	8 feet	5 feet	20 feet	5 feet

(F) *Building Height Regulations.*

Building Height Maximum	2 stories/3 stories/5 stories*
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* A building or a portion of a building that is located between 0 and 10 feet from the front property line or any master street plan right-of-way line shall have a maximum height of two (2) stories, between 10—20 feet from the master street plan right-of-way a maximum height of three (3) stories and buildings or portions of the building set back greater than 20 feet from the master street plan right-of-way shall have a maximum height of 5 stories.

If a building exceeds the height of two (2) stories, the portion of the building that exceeds two (2) stories shall have an additional setback from any side boundary line of an adjacent single family district. The amount of additional setback for the portion of the building over two (2) stories shall be equal to the difference between the total height of that portion of the building, and two (2) stories.

(G) *Building Area.* The area occupied by all buildings shall not exceed 50% of the total lot area. Accessory ground mounted solar energy systems shall not be considered buildings.

(H) *Minimum Buildable Street Frontage.* 50% of the lot width.

163.18 Type 2 Short-Term Rentals in Residential Zoning Districts

- (A) *Residential Zoning Districts.* Type 2 short-term rentals may be permitted as a conditional use in the following residential zoning districts:

- 1) R-A
- 2) RSF-.5
- 3) RSF-1
- 4) RSF-2
- 5) RSF-4
- 6) RSF-7
- 7) RSF-8
- 8) RSF-18
- 9) RI-12
- 10) RI-U
- 11) RMF-6
- 12) RMF-12
- 13) RMF-18
- 14) RMF-24
- 15) RMF-40
- 16) NC

Short-term rentals may be permitted by right or by conditional use in planned zoning districts subject to the zoning regulations enacted by the City Council for each district.

Short-term rentals in non-residential zoning districts, mixed use zoning districts, or other zoning districts not listed above are not required to apply for a conditional use permit.

- (B) *Occupancy.* Maximum of two (2) people per bedroom, plus two (2), for the entire unit when operated as a short-term rental.
- (C) *Parking.* Parking is limited to the maximum number of vehicles as allowed by the underlying zoning district for the residential building on the property.
- (D) Special events are not permitted in a short-term rental. Example of special events include, but are not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars.
- (E) Short-term rental units are allowed in any structure established as a permanent residential dwelling including an accessory dwelling unit. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.
- (F) *Exceptions.* Exceptions to the short-term rental standards, except proposals that would exceed the city-wide density maximum, may be granted by the Planning Commission as a conditional use permit.
- (G) Short-term rentals must comply with all applicable codes under City Code §118.01 and successfully obtain a business license prior to operation.
- (H) Short-term rentals in residential zoning districts may be subject to denial or additional conditions based upon the Planning Commission's findings on the following factors:
- 1) Adequate parking infrastructure;
 - 2) Adequate adjoining or nearby streets for on-street parking;
 - 3) Frequency or concentration of nearby licensed Type 2 short-term rentals; and
 - 4) Prior zoning or code violations

We are requesting that an application be approved for short term rental use for our property in Fayetteville Arkansas.

We have purchased this newly constructed townhome as a secondary property. Our daughter is an incoming freshman at the University of Arkansas, and will be using the property for her full-time residence during the school year of 2025. (two years from now)

We will also be using the property primarily for our family to stay while we are visiting our daughter.

However, we want to have the property available for use by friends, family and associates as a short term rental property as well.

Legal description:

281 W Ash St Unit 4 of Townhomes on Gregg per master deed record as file #2023-00014622 of the record of Washington county, Arkansas being a part of lot 4, block 12, Parker's Plat of valley view acres, a subdivision to the city of Fayetteville, Washington, county , Arkansas As shown on Plat record 4, Pager 103, and plat record 5, page 73.

The property is a newly constructed townhome project with 12 units of which we own one.

- (a) It is approximately 1346 ft.² consisting of two bedrooms and a downstairs office space with 2 1/2 bathrooms and an attached two car garage.
- (b) The exterior of the property is a hardy siding board that is painted gray with white trim and there is a 3 foot brick veneer across the bottom of the exterior.
- (c) We have two private parking spots outside of our unit in front, as well as a two car garage with interior parking. Additionally, there are approximately nine striped parking spaces for public parking inside of the property.
- (d) NA, this will not be for business use
- (e) The only outdoor lighting would be individual entryway lighting for each of the 12 individual units.
- (f) These units are constructed in a manner that they are all inward-facing so there should be no noise issues.
- (g) These units are constructed in a manner that they are all inward-facing so there should be no need for any buffering for the adjacent property
- (h) Water, electricity and trash are the responsibilities of the individual unit owners, and provided by the city of Fayetteville. The units are constructed where everything is internally facing so there will be no trash obstruction.
- (i) There is one exit from the townhome units and it exits on Ash Street. The main thoroughfare is Greg Street and there is no exit directly onto Greg Street.
- (j) This is a self-contained unit with the 12 individual townhomes, and should not be any distraction to the adjacent properties or the other property owners or neighborhoods

Thank you for your consideration and we hope our request will be approved,
Jeff and Erin King

SKETCH ADDENDUM

Borrower or Owner KING, JEFFREY C

Property Address 281 W ASH ST UNIT 4

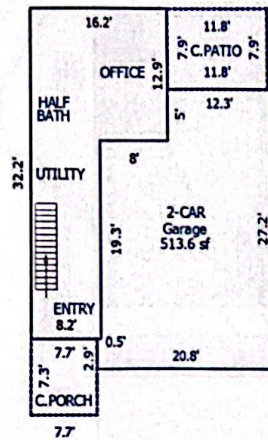
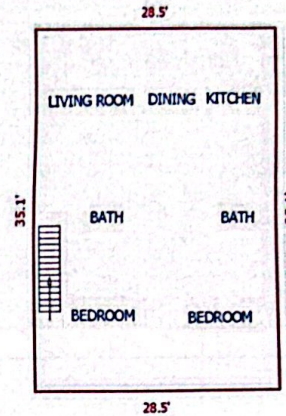
City FAYETTEVILLE

County WASHINGTON

State AR

Zip Code 72703

Client FLAT BRANCH MORTGAGE, INC.

First Floor
367.2 sfSecond Floor
1000.3 sf

Sketch by Apex Sketch v5 Standard™

Comments:

AREA CALCULATIONS SUMMARY			
Code	Description	Net Size	Net Totals
GLA1	First Floor	367.24	367.24
GLA2	Second Floor	1000.35	1000.35
GAR	Garage	513.61	513.61
P/P	COVERED PORCH	56.21	
	COVERED PATIO	93.22	149.43

LIVING AREA BREAKDOWN			
Breakdown			Subtotals
First Floor			
16.2	x	12.9	208.98
19.3	x	8.2	158.26
Second Floor			
28.5	x	35.1	1000.35

PHOTOGRAPH ADDENDUM

Borrower or Owner KING, JEFFREY C

Property Address 281 W ASH ST UNIT 4

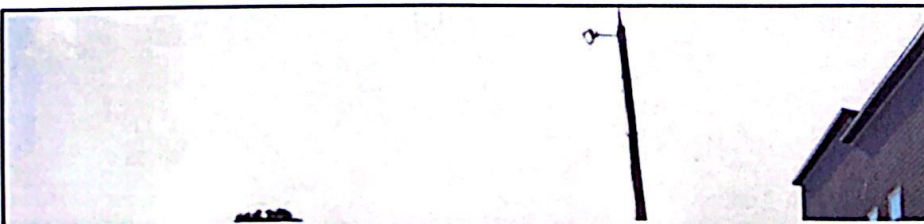
City FAYETTEVILLE

County WASHINGTON

State AR

Zip Code 72703

Client FLAT BRANCH MORTGAGE, INC.

FRONT VIEW OF
SUBJECT PROPERTYREAR VIEW OF
SUBJECT PROPERTY

PHOTOGRAPH ADDENDUM

Borrower or Owner KING, JEFFREY C

Property Address 281 W ASH ST UNIT 4

City FAYETTEVILLE

County WASHINGTON

State AR

Zip Code 72703

Client FLAT BRANCH MORTGAGE, INC.



LEFT SIDE



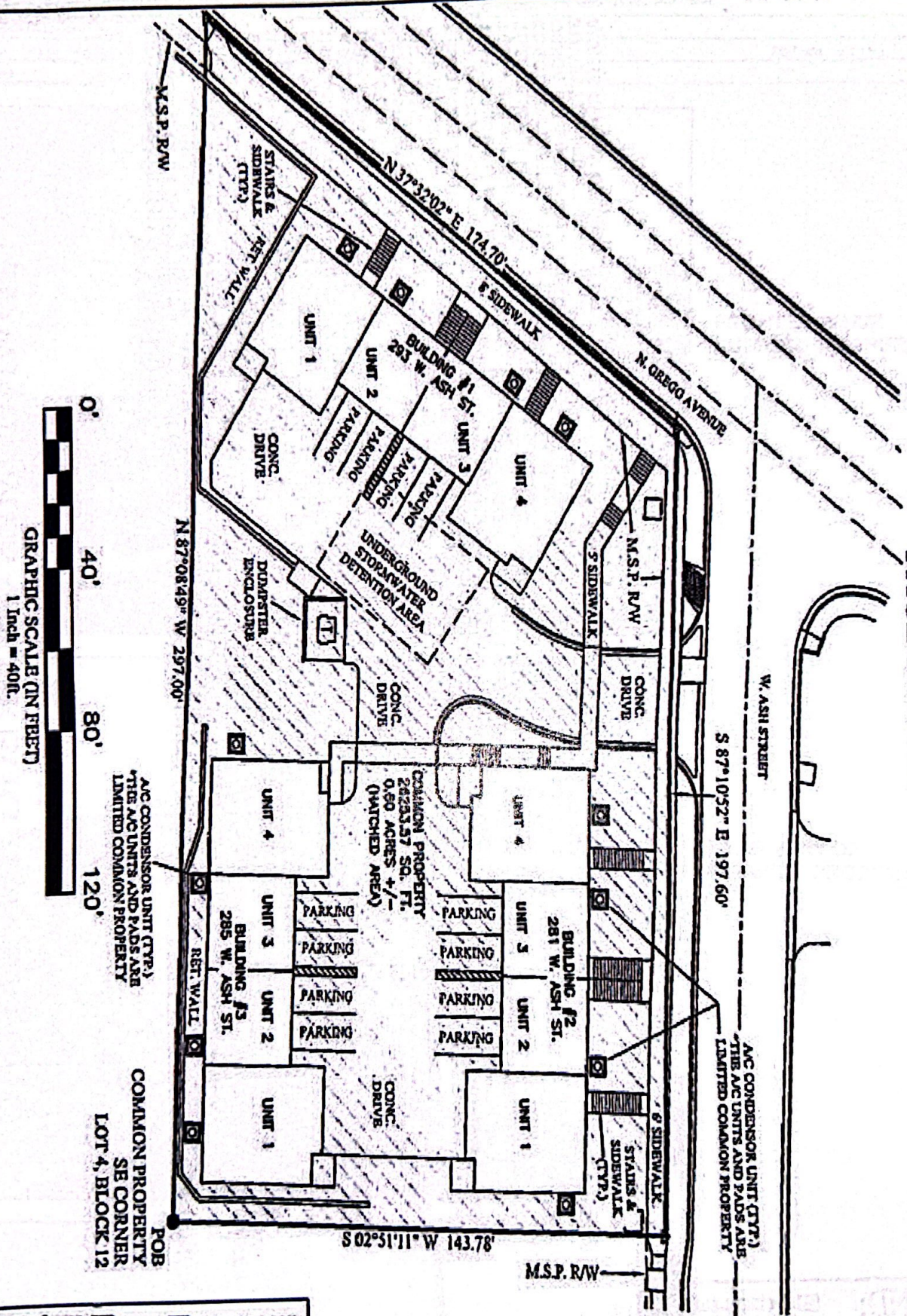
Garage



Office

TOWNHOMES ON GREGG HPR EXHIBIT

PAGE 10 OF 11

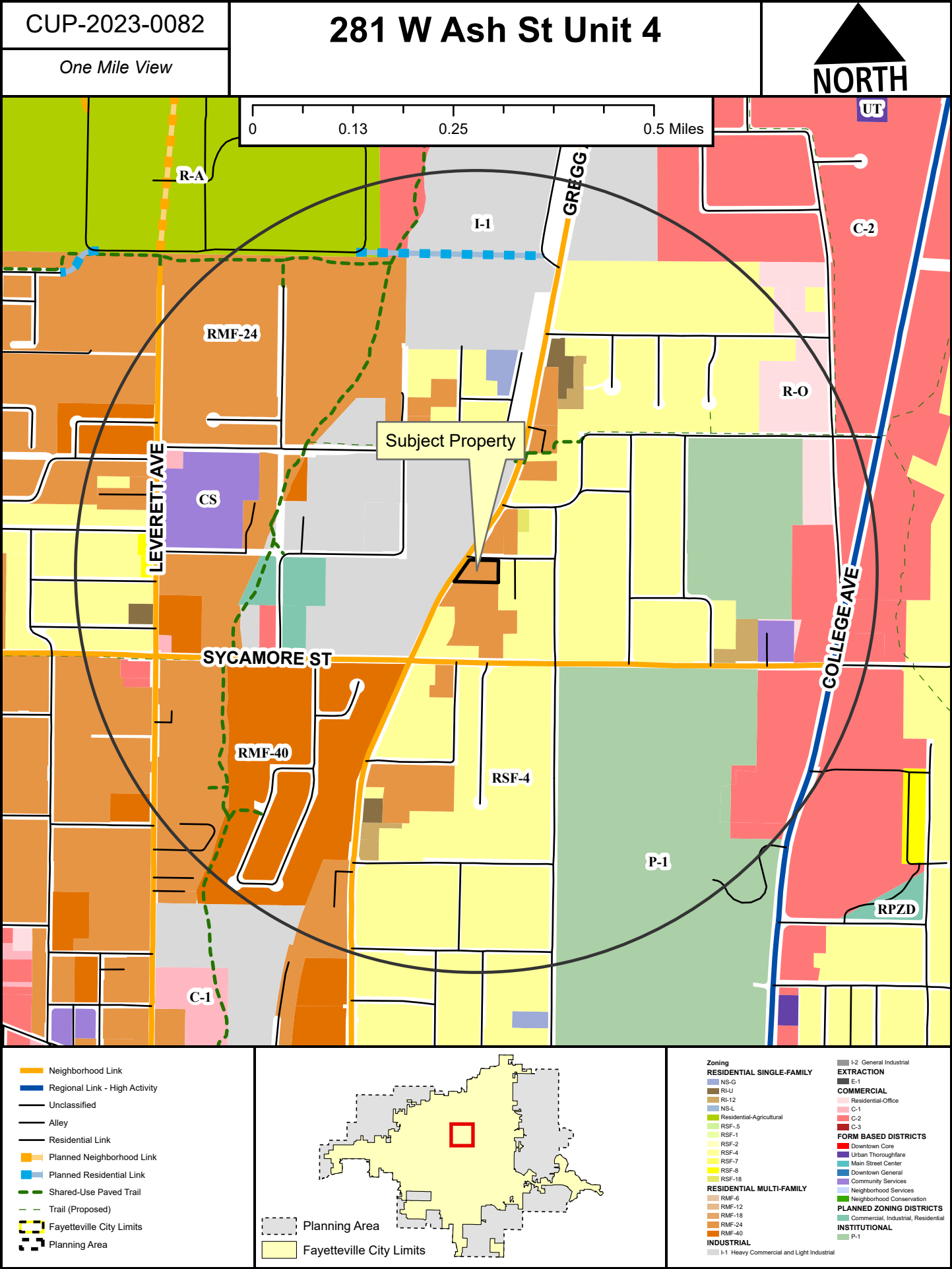


LEGEND:

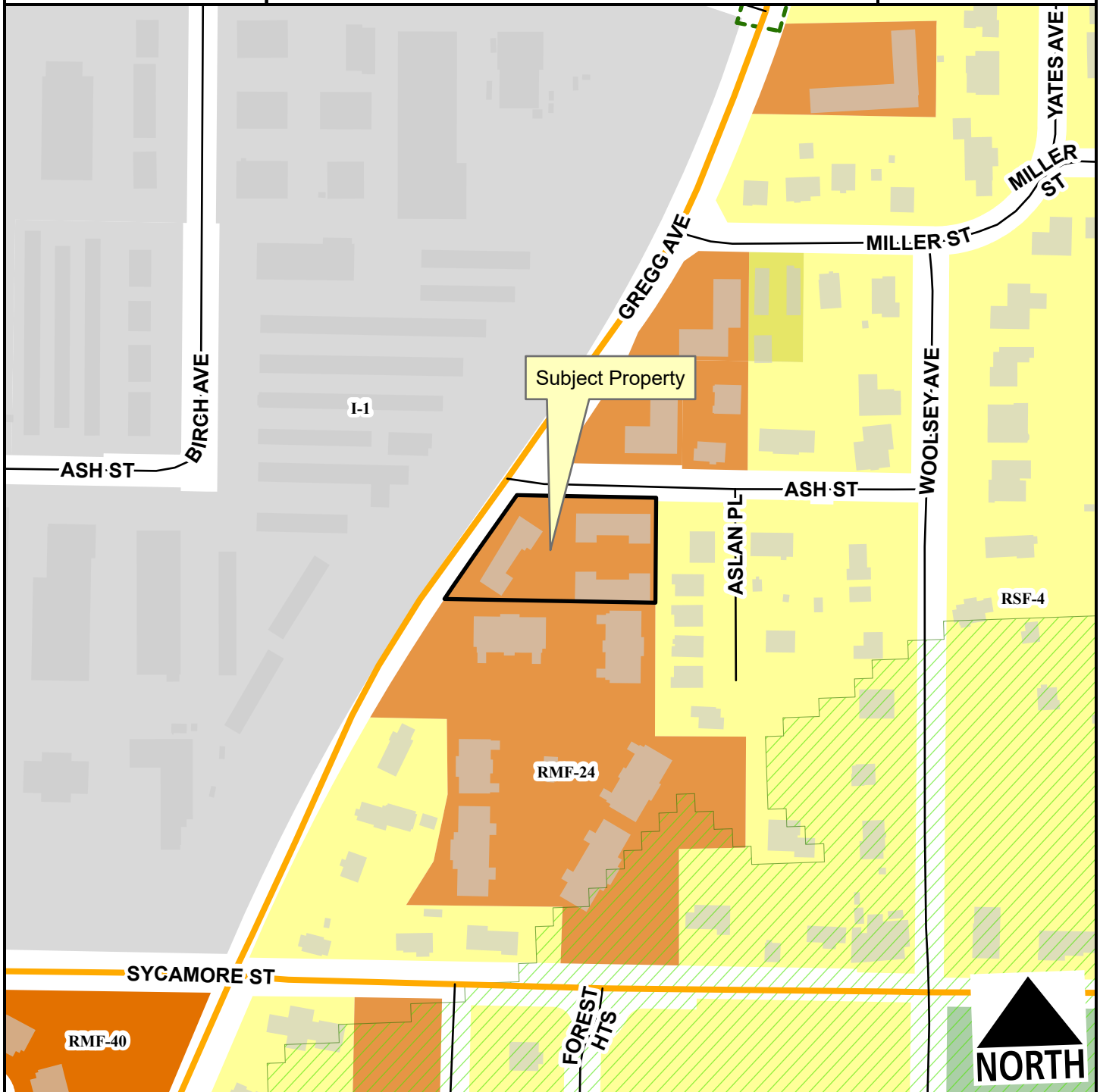
FOUND 5" REBAR

- ELECTRICAL BOX
- WATER METER
- FIRE HYDRANT

FOR USE AND BENEFIT OF:



Close Up View



- Neighborhood Link
- Unclassified
- Residential Link
- ▨ Hillside-Hilltop Overlay District
- ▨ Planning Area
- ▨ Fayetteville City Limits
- - - Shared-Use Paved Trail

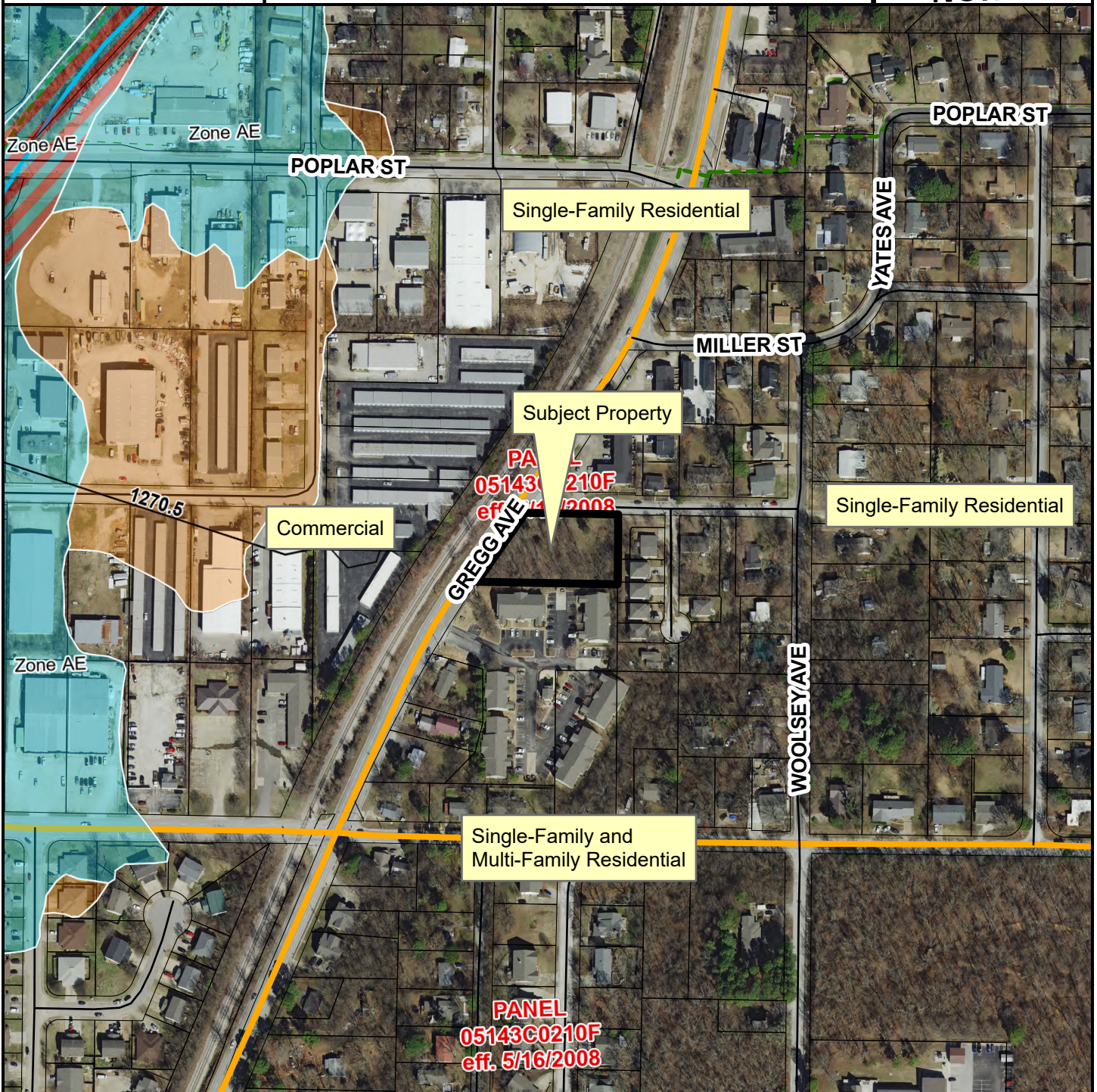


- RSF-4
- RSF-18
- RMF-24
- RMF-40
- I-1 Heavy Commercial and Light Industrial
- P-1

CUP-2023-0082

281 W Ash St Unit 4

Current Land Use



- Neighborhood Link
- Unclassified
- Residential Link
- Trail (Proposed)
- Planning Area
- Fayetteville City Limits

Feet
0 112.5 225 450 675 900
1:3,600

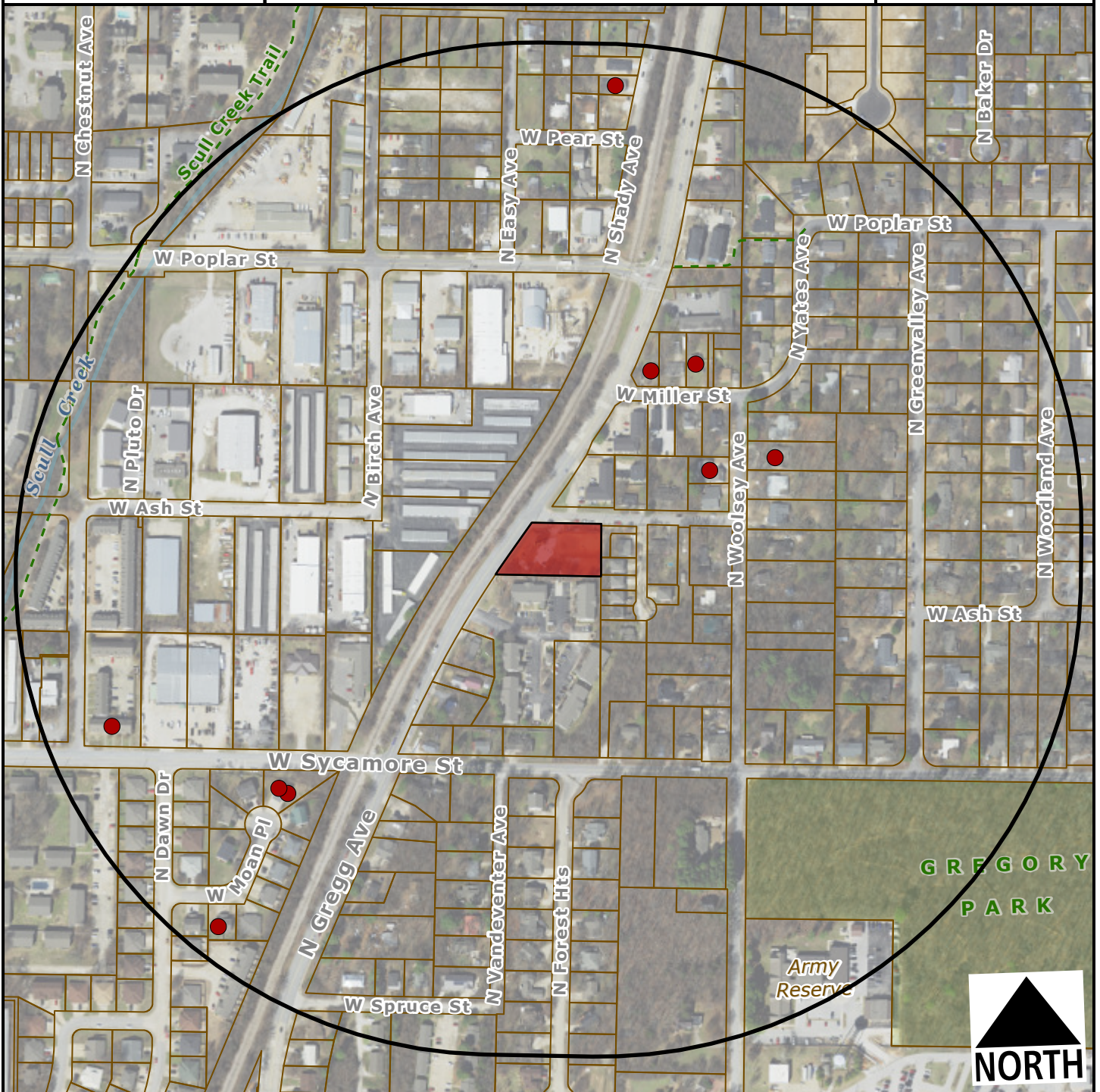
FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CUP-2023-0082

281 W Ash St Unit 4

STRs Within 1/4 Mile



-  Subject Property
-  Short Term Rental, Type 2



Number of STR Licenses

Total 9



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Gretchen Harrison, Senior Planner

MEETING DATE: August 14, 2023

SUBJECT: **CUP-2023-0083: Conditional Use Permit (411 W. PATRICIA LN./DAVIS-BARTON, 406):** Submitted by MOUNTAIN HAVEN PROPERTIES for property located at 411 W. PATRICIA LN. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contains approximately 0.20 acres. The request is to use the residence as a short-term rental.

RECOMMENDATION:

Staff recommends denial of **CUP-2023-0083** based on the findings contained in this report.

RECOMMENDED MOTION:

*"I move to deny **CUP-2023-0083**."*

BACKGROUND:

The subject property is located on the south side of Patricia Lane about 200 feet east of the street's intersection with Gregg Avenue. The property contains approximately 0.20 acres and is developed with a 1,790-square-foot, three-bedroom, single-family home which was built in 1976. On April 20, 2021, City Council adopted an ordinance to regulate short-term rentals operating within its limits. On December 20, 2022, City Council amended the ordinance to enact new requirements for short-term rentals, and on July 6, 2023, City Council amended the Type 2 short-term rental density cap from 2% of all dwelling units to 475 units city wide. This report reflects those new changes for consideration. Surrounding land uses and zoning are depicted in *Table 1*.

Table 1:
Surrounding Land Uses and Zoning

Direction	Land Use	Zoning
North	Single-Family Residential	RSF-4, Residential Single-Family, Four Units per Acre
South	Single-Family Residential	RSF-4, Residential Single-Family, Four Units per Acre
East	Single-Family Residential	RSF-4, Residential Single-Family, Four Units per Acre
West	Single-Family Residential	RSF-4, Residential Single-Family, Four Units per Acre

City Plan 2040 Future Land Use Designation: **Residential Neighborhood**

Proposal: The applicant requests conditional use permit approval to use the property as a Type 2 short-term rental, which are those not occupied by a permanent resident. Type 2 short-term rentals are subject to density limitations, including a city-wide cap of 475 units, and restrictions on the number of units that may be used as a short-term rental in multi-family dwelling complexes.

Public Comment: Staff has not received any public comment regarding this request.

RECOMMENDATION: Staff recommends denial of **CUP-2023-0083**. Should the Planning Commission choose to approve the item, staff recommends the following conditions of approval:

Conditions of Approval:

1. **Planning Commission determination of compatibility.** *Staff finds the proposed short-term rental to be incompatible based on the findings contained herein;*
2. Approval of the conditional use permit does not ensure approval of a business license application. The applicant must still be able to comply with all other applicable requirements in city code;
3. Per UDC §166.20, Expiration of Approved Plans and Permits, a business license must be obtained within one year of conditional use permit approval;
4. Per ordinance, the number of occupants is limited to a maximum of two people per bedroom, plus two, for the entire unit when the property is operated as a short-term rental;
5. Special events including, but not limited to, weddings, receptions, anniversaries, private parties, fundraisers, and business seminars are prohibited from occurring in the short-term rental;
6. No recreational vehicle, trailer, other vehicle, or structure not classified as a permanent residential dwelling may be used as a short-term rental;
7. All trash receptacles shall be screened from view of the right-of-way;
8. All outdoor lighting shall meet requirements as outlined in UDC Chapter 176, Outdoor Lighting;
9. Any signage shall meet the requirements as outlined in UDC Chapter 174, Signs; and
10. Per Business Regulations §120.02(A), the owners of only short-term rentals shall be required to designate and register their landlord's representative into the Landlord's Representative Registry.

PLANNING COMMISSION ACTION:			
Required	<u>YES</u>		
Date: <u>August 14, 2023</u>	☐ Tabled	☐ Approved	☐ Denied
Motion:			
Second:			
Vote:			

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

- B. Authority; Conditions.** The Planning Commission shall:
1. Hear and decide only such special exemptions as it is specifically authorized to pass on by the terms of this chapter;
 2. Decide such questions as are involved in determining whether a conditional use should be granted; and,
 3. Grant a conditional use with such conditions and safeguards as are appropriate under this chapter; or
 4. Deny a conditional use when not in harmony with the purpose and intent of this chapter.
- C. Procedures.** A conditional use shall not be granted by the Planning Commission unless and until:
1. A written application for a conditional use is submitted indicating the section of this chapter under which the conditional use is sought and stating the grounds on which it is requested.

Finding: The applicant has submitted a written application requesting a conditional use permit for a Type 2 short-term rental in RSF-4 zoning.

2. The applicant shall pay a filing fee as required under Chapter 159 to cover the cost of expenses incurred in connection with processing such application.

Finding: The applicant has paid the required filing fee.

3. The Planning Commission shall make the following written findings before a conditional use shall be issued:
 - (a.) That it is empowered under the section of this chapter described in the application to grant the conditional use; and

Finding: The Planning Commission is empowered under Business Regulations §118.01(E)(2) to grant the requested conditional use permit.

- (b.) That the granting of the conditional use will not adversely affect the public interest.

Finding: Staff finds that granting the requested conditional use may adversely affect the public interest. While there are applicable business licensing requirements that are intended to protect the public interest, staff finds that the concentration of short-term rentals nearby has reached a critical mass, and the addition of another short-term rental may negatively impact the character of the surrounding neighborhood and run afoul with the City's goals to limit the concentration of short-term rentals in individual neighborhoods.

(c.) The Planning Commission shall certify:

(1.) Compliance with the specific rules governing individual conditional uses; and

Finding: There are specific rules governing short-term rentals, as follows:

§163.18. SHORT-TERM RENTALS.

A. Residential Zoning Districts. Type 2 short-term rentals may be permitted as a conditional use in the following residential zoning districts: R-A, RSF-.5, RSF-1, RSF-2, RSF-4, RSF-7, RSF-8, RSF-18, RI-12, RI-U, RMF-6, RMF-12, RMF-18, RMF-24, RMF-40, and NC. Short-term rentals may be permitted by right or by conditional use in planned zoning districts subject to the zoning regulations enacted by the City Council for each district. Short-term rentals in non-residential zoning districts, mixed use zoning districts, or other zoning districts not listed above are not required to apply for a conditional use permit.

Finding: The request is to operate a Type 2 short-term rental in RSF-4 zoning. Since RSF-4 is a residential zoning district, a conditional use permit is required.

B. Occupancy. Maximum of two (2) people per bedroom, plus two (2), for the entire unit when operated as a short-term rental.

Finding: Since this dwelling contains three bedrooms, occupancy in this short-term rental would be limited to a maximum of eight guests per ordinance. Occupancy limitations are confirmed by the applicant during licensing.

C. Parking. Parking is limited to the maximum number of vehicles as allowed by the underlying zoning district for the residential building on the property.

Finding: Parking for single-family dwellings is required to be provided at a rate of two spaces per unit and up to four vehicles are permitted to be parked outdoors on the property. Based on the applicant's submittal, at least four parking spaces are available on site in an existing carport and circle driveway.

D. Special events are not permitted in a short-term rental. Example of special events include, but are not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars.

Finding: The application letter suggests the property would comply with the City's regulations for a short-term rental. As a condition of approval, staff recommends a prohibition on special events.

E. Short-term rental units are allowed in any structure established as a permanent residential dwelling including an accessory dwelling unit. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

Finding: The application is for use of the property at 411 W. Patricia Ln. Should the Planning Commission choose to approve this item, staff recommends a condition confirming that no recreational vehicle, trailer, other vehicle or

structure not classified as a permanent residential dwelling may be used as a short-term rental.

- F. **Exceptions.** Exceptions to the short-term rental standards, except proposals that would exceed the city-wide density maximum, may be granted by the Planning Commission as a conditional use permit.

Finding: Type 2 short-term rentals are subject to a city-wide density cap at 475 units. As of August 7, 2023, the City had issued 392 Type 2 short-term rental business licenses. Granting a conditional use permit for this location would give the applicant the zoning entitlement necessary to apply for a business license, but it would not guarantee approval of a business license.

- G. Short-term rentals must comply with all applicable codes under City Code §118.01 and successfully obtain a business license prior to operation.

Finding: This short-term rental would be subject to all codes in Business Regulations §118.01 that apply to Type 2 short-term rentals in residential zoning districts. Applicable business licensing requirements would be reviewed by staff and confirmed by the applicant at the time of licensing.

- H. Short-term rentals in residential zoning districts may be subject to denial or additional conditions based upon the Planning Commission's findings on the following factors:

1. Adequate parking infrastructure;
2. Adequate adjoining or nearby streets for on-street parking;
3. Frequency or concentration of nearby licensed Type 2 short-term rentals; and
4. Prior zoning or code violations.

Finding: There appears to be adequate parking available to support the use of the property as a short-term rental based on the applicant's submittal. The applicant has indicated that there are at least four parking spaces available on site in a carport and circle driveway. On-street parking also appears to be available along Patricia Lane and other nearby streets. City records indicate that 16 other units within a quarter-mile radius have active Type 2 short-term rental business licenses, including three other units on Patricia Lane. Given the property's high infill score and proximity to a mixed-density area and major thoroughfares, staff finds that the high number of issued Type 2 licenses is not surprising, but approving another license in the area may negatively contribute to a neighborhood that is otherwise a compact, complete, and connected one. No prior zoning or code violations have been reported on this property.

§163.02. AUTHORITY; CONDITIONS; PROCEDURES. (continued)

- (2.) That satisfactory provisions and arrangements have been made concerning the following, where applicable:

- (a.) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe;

Finding: A private circle driveway with two curb cuts onto Patricia Lane is available to accommodate vehicular ingress and egress to the subject property. The street appears to have sufficient width to support on-street parking along one side of the street with adequate space for emergency vehicles. Sidewalk is not present along the property's frontage, but it is nearby along Gregg Avenue and North Street. Staff finds that the requested condition use is not likely to adversely affect traffic flows considering occupancy would be limited to a maximum of eight guests, which would not be out of character with the use of the property for residential purposes.

- (b.) Off-street parking and loading areas where required, with particular attention to ingress and egress, economic, noise, glare, or odor effects of the special exception on adjoining properties and properties generally in the district;

Finding: Four off-street parking spaces are available on this property with three spaces in a circle driveway and one additional space in a carport. The short-term rental ordinance limits the number of guest vehicles to the maximum number of vehicles as allowed by the underlying zoning district.

- (c.) Refuse and service areas, with particular reference to ingress and egress, and off-street parking and loading;

Finding: The applicant proposes typical residential trash cart service and has stated that carts will be stored on the side of the carport where they are hidden from view by a fence and vegetation. Should the Planning Commission choose to approve this conditional use permit, staff recommend a condition confirming that carts be screened from view of the right-of-way when not placed at the curb for pick up.

- (d.) Utilities, with reference to locations, availability, and compatibility;

Finding: Utilities are currently available to the property and its use as a short-term rental is not anticipated to impact the provision of utilities.

- (e.) Screening and buffering with reference to type, dimensions, and character;

Finding: Staff recommends that residential trash carts be screened so that they are not visible from the public right-of-way when not placed at the curb for pick up. The applicant has stated that the carts will be stored next to the carport and screened from view of adjacent properties.

- (f.) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;

Finding: Any proposed signage will be subject to Unified Development Code Chapter 174, Signs, and all regulations therein.

- (g.) Required yards and other open space; and

Finding: Based on the applicant's submittal and city records, this unit is meeting relevant setbacks. A property line adjustment was recorded earlier this year which shifted the southern property line farther south to move the existing house out of required setbacks (PLA-2022-0068).

- (h.) General compatibility with adjacent properties and other property in the district.

Finding: On the balance of considerations, staff finds the proposed use to be incompatible with surrounding properties. With 16 units in this area already having received a Type 2 business license within a quarter mile of the subject property, staff finds that the neighborhood is currently bearing a higher burden on accommodating short-term rentals than others in the City.

- (i.) General compatibility with the goals and intent of the city's adopted land-use, transportation, and other strategic plans.

Finding: Staff finds the proposed use to be somewhat incompatible with the City's adopted land use, transportation, and other strategic plans since it does not clearly support any of the goals identified in those plans. Staff acknowledges that there are safeguards in place that limit how short-term rentals operate to ensure that the City can still meet those goals, including a city-wide limit and restrictions on the number of units that may be used as a short-term rental in multi-family dwelling complexes. However, staff finds that approving another Type 2 license in this area may run counter to Goal 3 of City Plan 2040, creating compact, complete, and connected neighborhoods, and will remove another unit of housing from an area with a high infill score (10) and a limited housing inventory.

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

- Business Regulations
 - §118.01 Applicability
- Unified Development Code
 - §161.07 District RSF-4, Residential Single-Family – Four (4) Units Per Acre
 - §163.18 Type 2 Short-Term Rentals in Residential Zoning Districts
- Applicant Request Letter
- Building Floor Plans

- Building Elevations
- Site Plan
- One Mile Map
- Close-Up Map
- Current Land Use Map
- STRs within ¼ Mile Map

118.01 Applicability

- (E) *Short-Term Rentals.* A residential dwelling unit, portion of a dwelling unit, or bedroom within a residential dwelling unit, leased and/or rented to a guest(s), for a period of less than thirty consecutive (30) days.
- (1) *Short-Term Rental, Type 1.* A short-term rental where the principal use of the property remains as a full-time residence. The occupants or owner rent their primary residence as a short-term rental. A copy of the Homestead Tax Credit or long-term lease agreement for the subject property is required to be classified as a Type 1 rental. The occupant or owner must occupy the residence for nine (9) months of the year. Accessory dwelling units (ADUs) as defined in Unified Development Code Chapter 151 shall be considered a Type 1 short-term rental.
 - (2) *Short-Term Rental, Type 2.* A short-term rental that is not occupied by a permanent resident. The owner lists this property full-time as a short-term rental and has no intention of having permanent residents living in the property. A conditional use permit is required for a Type 2 short-term rental in a residential zoning district prior to the city issuing a business license.
 - (3) *License Required.* No dwelling unit in the city shall be used as a short-term rental unless:
 - (a) The owner of the dwelling unit or operator of the short-term rental possess a valid and current business license for the dwelling unit, and fully complies with all legal requirements and duties imposed herein with respect to each and every short-term rental; and
 - (b) The owner has designated an agent, where said agent fully complies with all legal requirements and duties imposed herein with respect to every short-term rental. The owner may serve as their own agent.
 - (c) The owner of the dwelling unit or operator of the short-term rental provides proof of a valid and current homeowners insurance rider policy which fully covers each unit when operated as short-term rental unit.
 - (4) A separate business license shall be required for each dwelling unit used as a short-term rental.
 - (5) Any change in ownership requires a new or amended business license.
 - (6) If any required contact information changes for the associated business license, the person to whom the license was issued shall immediately notify the Development Services Department in writing.
 - (7) *License Application.* The application for a business license shall include at minimum, the following information from applicants:
 - (a) The property owner's information including legal name, mailing address, immediate contact phone number, and immediate contact E-mail address.
 - (b) Information for the dwelling unit subject to the application, inclusive of the physical street address assigned by the city.
 - (c) The type and total number of dwelling units located on the lot of record containing the dwelling unit subject to the application.
 - (d) If the owner is not their own agent, the owner designated agent's information including legal name, mailing address, immediate contact phone number and immediate contact E-mail address.
 - (e) Documentation of approval of a life safety and egress inspection by the City Building Safety Division for the dwelling unit subject to the application.
 - (f) Proof of application for remittance of hotel, motel and restaurant tax to the City of Fayetteville, and verification that all sales, use, and hotel, motel and restaurant taxes are current.
 - (g) Any additional data as deemed necessary or desirable for permit approval by the Development Services Director.
 - (8) *License Renewals.* Business licenses for short-term rentals shall be renewed in accordance with Chapter 118 of the Business Regulations (Business Registry and Licenses).
 - (9) *Legal Duties of License Holders.* An owner possessing a short-term rental license shall comply at all times with the following requirements:
 - (a) *Occupancy.* Short-term rentals shall be subject to, and may not exceed, the occupancy limits approved with the business license.
 - (b) *Advertisements.* A short-term rental shall not be advertised if it violates occupancy, density, safety, and any of the other provisions of the Fayetteville Code. No short-term rental unit shall be advertised prior to having obtained a business license and the business license number shall be included in the advertisement listing.
 - (c) *Information and Posting.* Business licensees shall provide to guests and post conspicuously in the common area of the short-term rental unit the city phone number to report a safety complaint.
 - (10) *Owner or Agent Accessibility.* The property owner shall ensure that they or a designated agent are available at all times during guest occupancy, including nights and weekends, in order to facilitate compliance with this section. For the purposes of these regulations, 'availability' means that the owner or agent is accessible

- by telephone, and, able to be physically present at the short-term rental within three (3) hours of being contacted.
- (11) *Guest Records.* The owner shall maintain summary guest registration records, which shall contain the actual dates of occupancy, total number of guests per party per stay, and the rate(s) charged, but shall not contain any personally identifiable information about guests. Such records shall be maintained for three (3) years and shall be provided to the City upon request.
 - (12) *Health and Safety.* The owner shall ensure that each dwelling unit governed by this section complies with the applicable provisions of the Unified Development Code Chapter 173, Building Regulations.
 - (13) *Criminal Activity.* The owner shall timely report any known or reasonably suspected criminal activity by a guest to the Fayetteville Police Department within twelve (12) hours maximum.
 - (14) *Taxes and Fees.* Except for those instances in which a hosting platform bears the responsibility for collecting and remitting taxes and fees applicable to short-term rentals, the property owner shall timely remit in full Fayetteville Hotel, Motel and Restaurant tax and other applicable local, state, and federal taxes and city fees owed in connection with any short-term rental. The failure of a hosting platform to collect and remit taxes and fees shall not relieve an owner of the obligation to pay taxes and fees owed pursuant to this section.
 - (15) *Authorization to Occupy, Use, and Operate.* Authorization to operate a short-term rental may be granted by the Development Services Director through the issuance of a City of Fayetteville Business Registry and License (Business License).
 - (16) *Density For Type 2 Short-Term Rentals.* A city-wide density cap of 475 dwelling units may be Type 2 rentals. A conditional use permit may not permit:
 - (a) More Type 2 short-term rentals than what is allowed by the city-wide density cap.
 - (b) More than 10% or a single unit whichever is greater; of total dwelling units as Type 2 rentals within a multi-family dwelling complex.
 - (c) Individual 2-, 3- and 4-family buildings that are owned by the same person or entity and are not a part of a multi-family complex shall have no more than one (1) Type 2 short-term rental unit per building complex.
 - (d) Where attached residential units are held separately through condominium association, horizontal property regime, fee simple, or similar ownership structure, no cap shall be applied to buildings with attached residential dwellings. Structures of attached residential dwellings where applicants seek more than 10% of total units for licensing as Type 2 rentals shall be evaluated by the Building Safety Director and/or Fire Marshal for adequate fire protection as defined by the adopted Arkansas Fire Prevention Code. Where inadequate fire protection is identified, improvements may be required prior to issuance of a business license.
 - (17) *Suspension and Revocation.* If the Development Services Director has reason to believe that any of the grounds specified in §118.03(A) of the Fayetteville Code exist, or that any rental unit was rented for less than one (1) full night, or to more than one (1) part of guests for the same period of time, or otherwise failed to comply with all terms and conditions of this section, the Development Services Director may suspend or revoke the short-term rental's business license pursuant to the procedures detailed in §118.03 and in §118.04 of the Fayetteville Code.
 - (18) Short-term rentals must comply with all applicable codes under Unified Development Code §163.18 and § 164.26 successfully obtain a business license prior to operation.

161.07 District RSF-4, Residential Single-Family - Four (4) Units Per Acre

(A) *Purpose.* The RSF-4 Residential District is designed to permit and encourage the development of low density detached dwellings in suitable environments, as well as to protect existing development of these types.

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 41	Accessory dwellings
Unit 46	Short-term rentals

(2) *Conditional Uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 9	Two-family dwellings
Unit 12a	Limited business
Unit 24	Home occupations
Unit 36	Wireless communications facilities
Unit 44	Cluster Housing Development

(C) *Density.*

	Single-family dwellings	Two (2) family dwellings
Units per acre	4 or less	7 or less

(D) *Bulk and Area Regulations.*

	Single-family dwellings	Two (2) family dwellings
Lot minimum width	70 feet	80 feet
Lot area minimum	8,000 square feet	12,000 square feet
Land area per dwelling unit	8,000 square feet	6,000 square feet
Hillside Overlay District Lot minimum width	60 feet	70 feet
Hillside Overlay District Lot area minimum	8,000 square feet	12,000 square feet
Land area per dwelling unit	8,000 square feet	6,000 square feet

(E) *Setback Requirements.*

Front	Side	Rear
15 feet	5 feet	15 feet

(F) *Building Height Regulations.*

Building Height Maximum	3 stories
-------------------------	-----------

(G) *Building Area.* On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot. Accessory ground mounted solar energy systems shall not be considered buildings.

163.18 Type 2 Short-Term Rentals in Residential Zoning Districts

- (A) *Residential Zoning Districts.* Type 2 short-term rentals may be permitted as a conditional use in the following residential zoning districts:

- 1) R-A
- 2) RSF-.5
- 3) RSF-1
- 4) RSF-2
- 5) RSF-4
- 6) RSF-7
- 7) RSF-8
- 8) RSF-18
- 9) RI-12
- 10) RI-U
- 11) RMF-6
- 12) RMF-12
- 13) RMF-18
- 14) RMF-24
- 15) RMF-40
- 16) NC

Short-term rentals may be permitted by right or by conditional use in planned zoning districts subject to the zoning regulations enacted by the City Council for each district.

Short-term rentals in non-residential zoning districts, mixed use zoning districts, or other zoning districts not listed above are not required to apply for a conditional use permit.

- (B) *Occupancy.* Maximum of two (2) people per bedroom, plus two (2), for the entire unit when operated as a short-term rental.
- (C) *Parking.* Parking is limited to the maximum number of vehicles as allowed by the underlying zoning district for the residential building on the property.
- (D) Special events are not permitted in a short-term rental. Example of special events include, but are not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars.
- (E) Short-term rental units are allowed in any structure established as a permanent residential dwelling including an accessory dwelling unit. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.
- (F) *Exceptions.* Exceptions to the short-term rental standards, except proposals that would exceed the city-wide density maximum, may be granted by the Planning Commission as a conditional use permit.
- (G) Short-term rentals must comply with all applicable codes under City Code §118.01 and successfully obtain a business license prior to operation.
- (H) Short-term rentals in residential zoning districts may be subject to denial or additional conditions based upon the Planning Commission's findings on the following factors:
- 1) Adequate parking infrastructure;
 - 2) Adequate adjoining or nearby streets for on-street parking;
 - 3) Frequency or concentration of nearby licensed Type 2 short-term rentals; and
 - 4) Prior zoning or code violations

REQUEST LETTER

411 W Patricia Ln.

Fayetteville, AR 72703

Please review our request for a Conditional Use Permit for a Type 2 Short-Term Rental. See below for more details...

(a) **Building Size:** 1,790 sq ft (existing structure)

(b) **Color Elevation:** The siding is currently a beige color but will be painted dark blue starting on July 3, 2023. A stone skirt will be applied to the lower 1/3 of the house and detached building in mid-July 2023. The door/window trim and gutters are currently white and will remain white. The roof is currently burgundy and will remain burgundy. The decks are currently a tan color and will be stained a medium brown in mid to late July 2023. See Elevation Colors document attached to application for more details.

(c) **Number of Off-Street Parking Spaces:** up to 5 (1 in carport + 4 in circle driveway)

(d) **Outdoor Lighting:** Porch lights and carport lights. They are motion-sensor so they do not stay on all the time. And we have the ability to control most of them from our phones so we can turn them off remotely if they become a nuisance.

(e) **Noise:** There are currently no noise disturbances on the property and we recently installed cameras (with microphones and phone apps) to help us closely monitor the property for any unusual activity and/or noise issues. We live 6 miles from the property and can be there quickly should any issues arise.

(f) **Screening or Buffering from Adjacent Properties:** The entire property is densely wooded and there is a 6 ft tall wood privacy fence in certain areas to provide even more screening. The carport/detached building is visible from the road and is well maintained. And the house sits near the back of the lot and is barely visible from the road.

(g) **Trash and Refuse Service:** The trash can and recycling bin are stored on the side of the carport/detached building where they are hidden from the neighbors' view by a fence and foliage. We live close by and ensure that the trash/recycling containers are placed at the curb right before trash day and are moved back out of view within a few hours after the trash/recycling has been picked up.

(h) **Ingress and Egress to the Property:** The property has a circle drive providing easy access in and out of the property as well as extra parking spaces when needed. And Patricia Ln. intersects Gregg St. and N. Vandeventer Ave. (which intersects North St.) providing guests two travel routes to and from the property.

(i) **General Compatibility in the Neighborhood:** I am aware of one active short-term rental (located at 431 W. Patricia Ln.) on the street and I believe the owners of 423 W. Patricia Ln. and 424 W. Patricia Ln. also have a STR permit/business license but they are currently using their properties as long-term rentals. There are several other long-term rentals in the neighborhood but I'm not certain of the exact number.

This is a great location for a vacation rental given the close proximity to the University of Arkansas, downtown, Wilson Park, and the trail system. And this property is unlike most other short-term rentals due to its unique architecture, history, and natural landscape.

Thank you for your time and consideration.



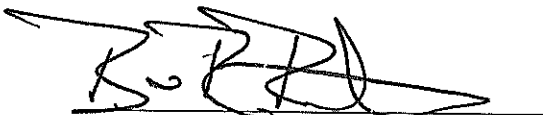
Applicant's Signature

Chrystal M. Davis, Chief Executive Member, Mountain Haven Properties, LLC

Printed Name/Title

6-28-23

Date



Co-Applicant's Signature

Brian R. Barton, Member, Mountain Haven Properties, LLC

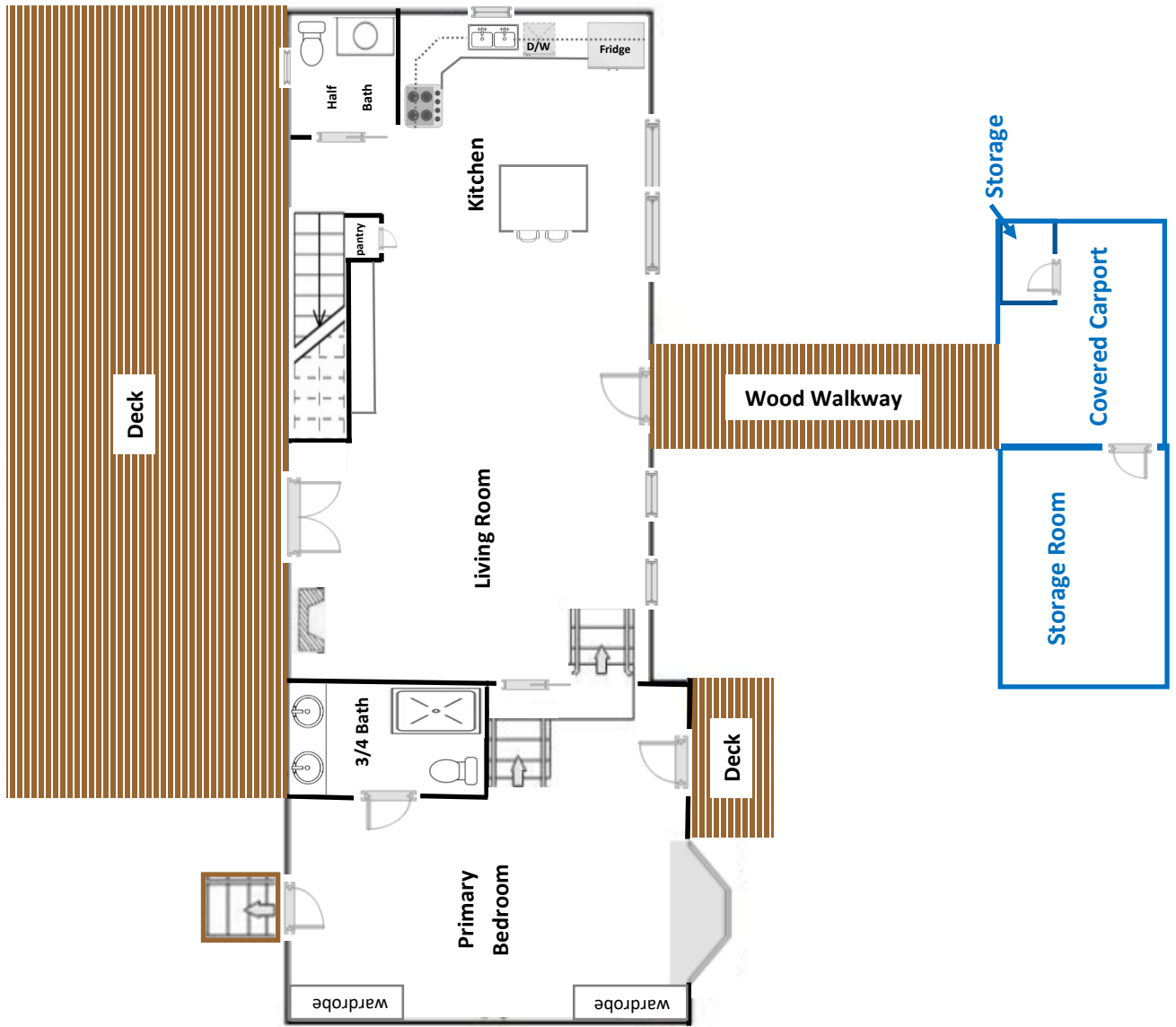
Printed Name/Title

6-28-23

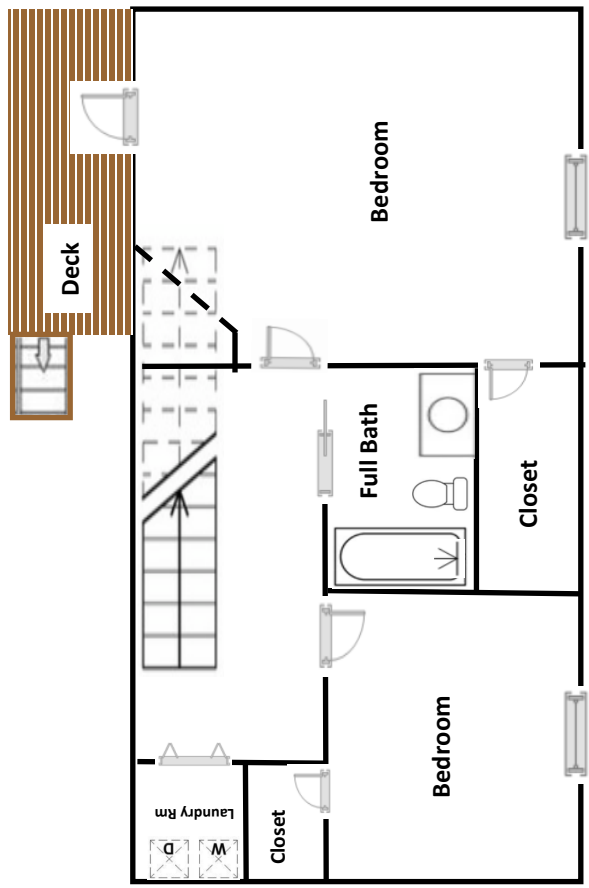
Date

UPPER LEVEL FLOORPLAN

411 W. Patricia Ln., Fayetteville, AR 72703



LOWER LEVEL FLOORPLAN
411 W. Patricia Ln., Fayetteville, AR 72703



CURRENT ELEVATION COLORS

411 W. Patricia Ln., Fayetteville, AR 72703



Front of House: Beige Siding, White Window/Door Trim, White Gutters, Burgundy Roof, and Tan Wood Decking



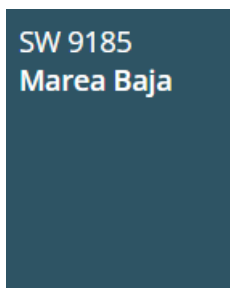
Back of House: Beige Siding, White Window/Door Trim, White Gutters, Burgundy Roof, and Tan Wood Decking



Carport & Storage Room - ALL Sides: Beige Siding, White Window/Door Trim, White Gutters, and Burgundy Roof

NEW ELEVATION COLORS - ALL SIDES OF ALL STRUCTURES ON PROPERTY

Starting July 3, 2023 - will take 2 weeks to complete



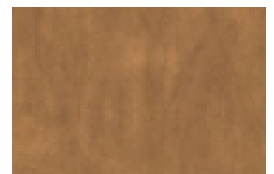
Siding



Door & Window Trim



Stone Skirt

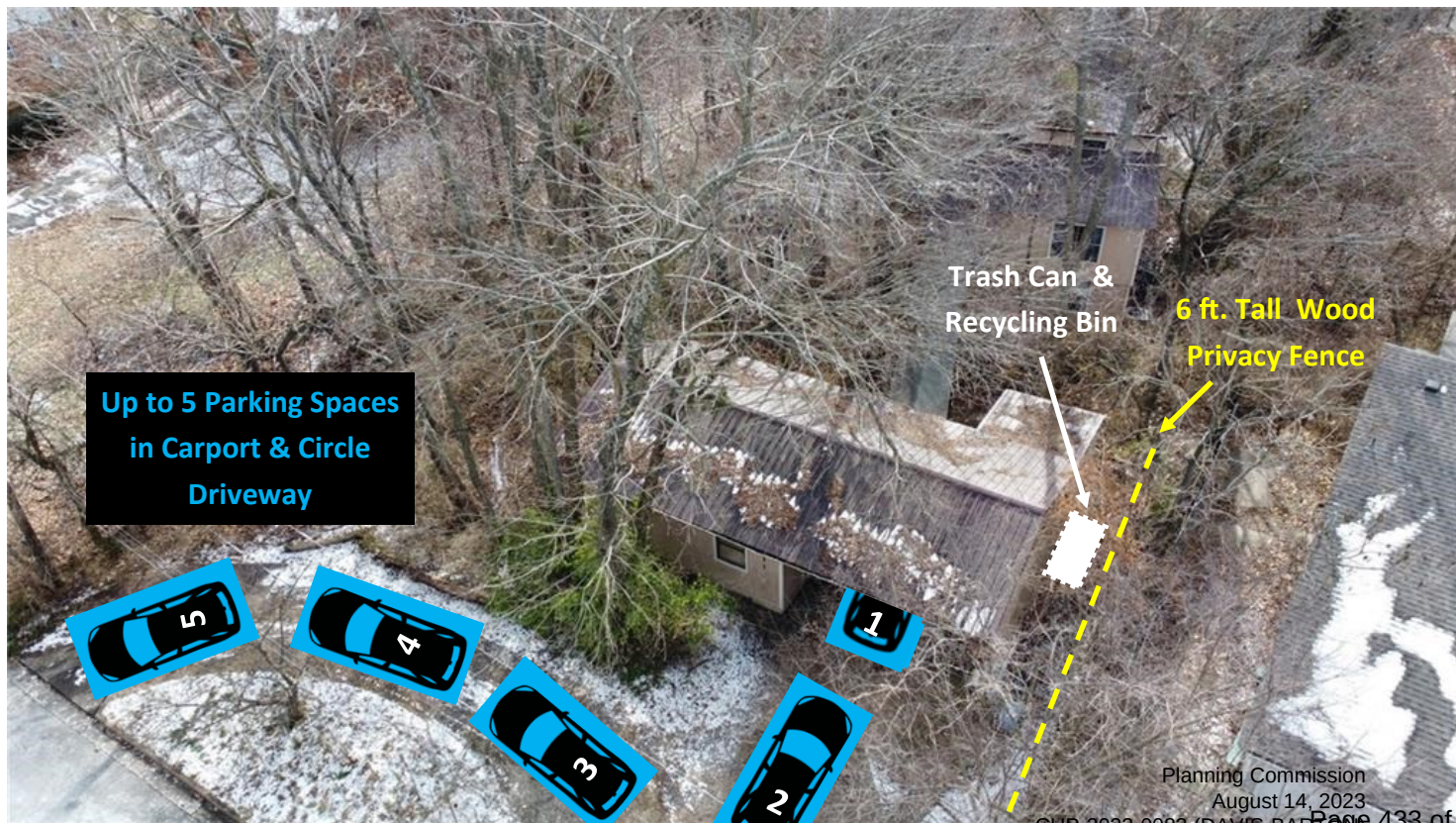
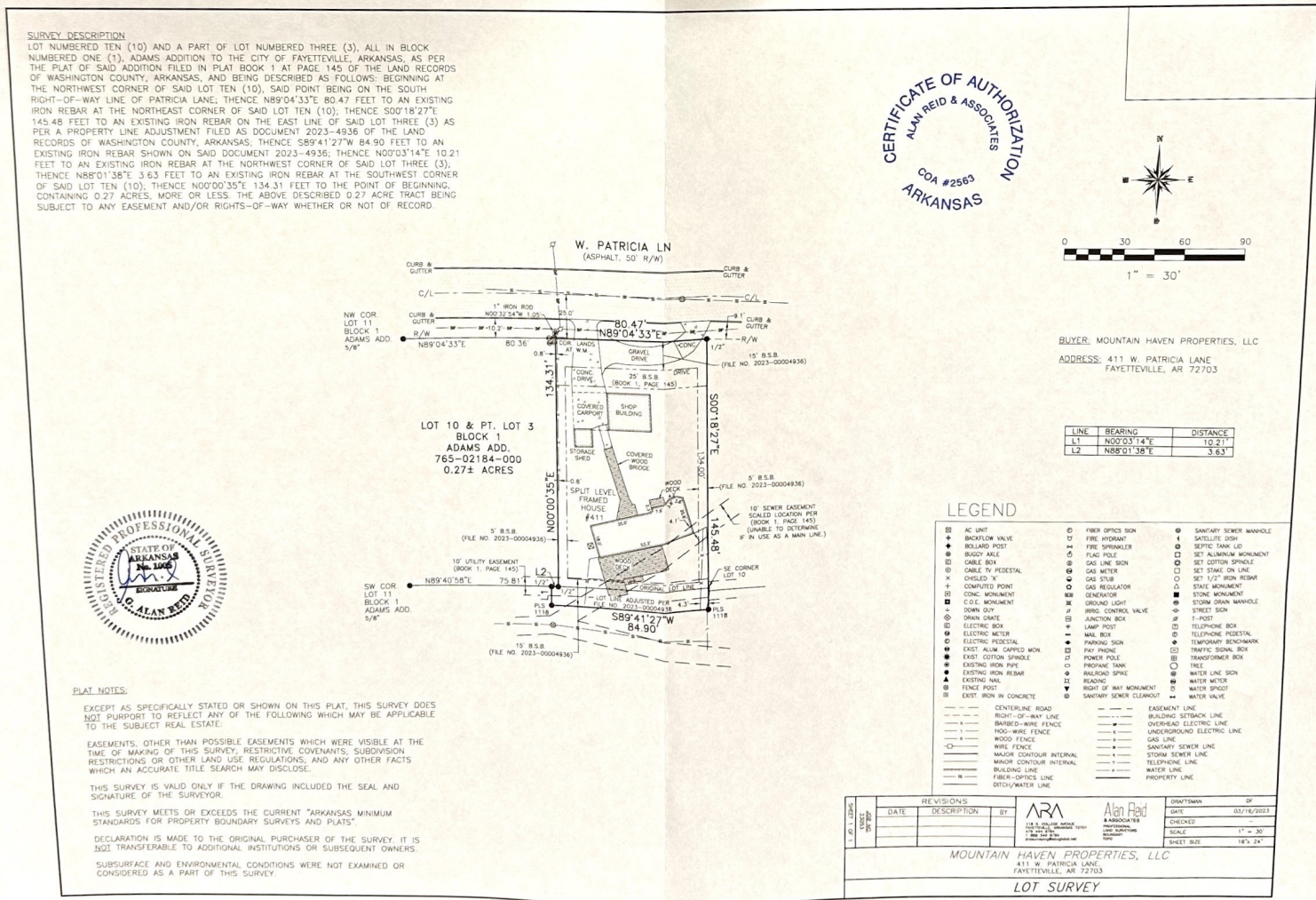


Deck Stain

Gutters to remain white. Roof to remain burgundy.

SITE PLAN / SURVEY

411 W. Patricia Ln., Fayetteville, AR 72703

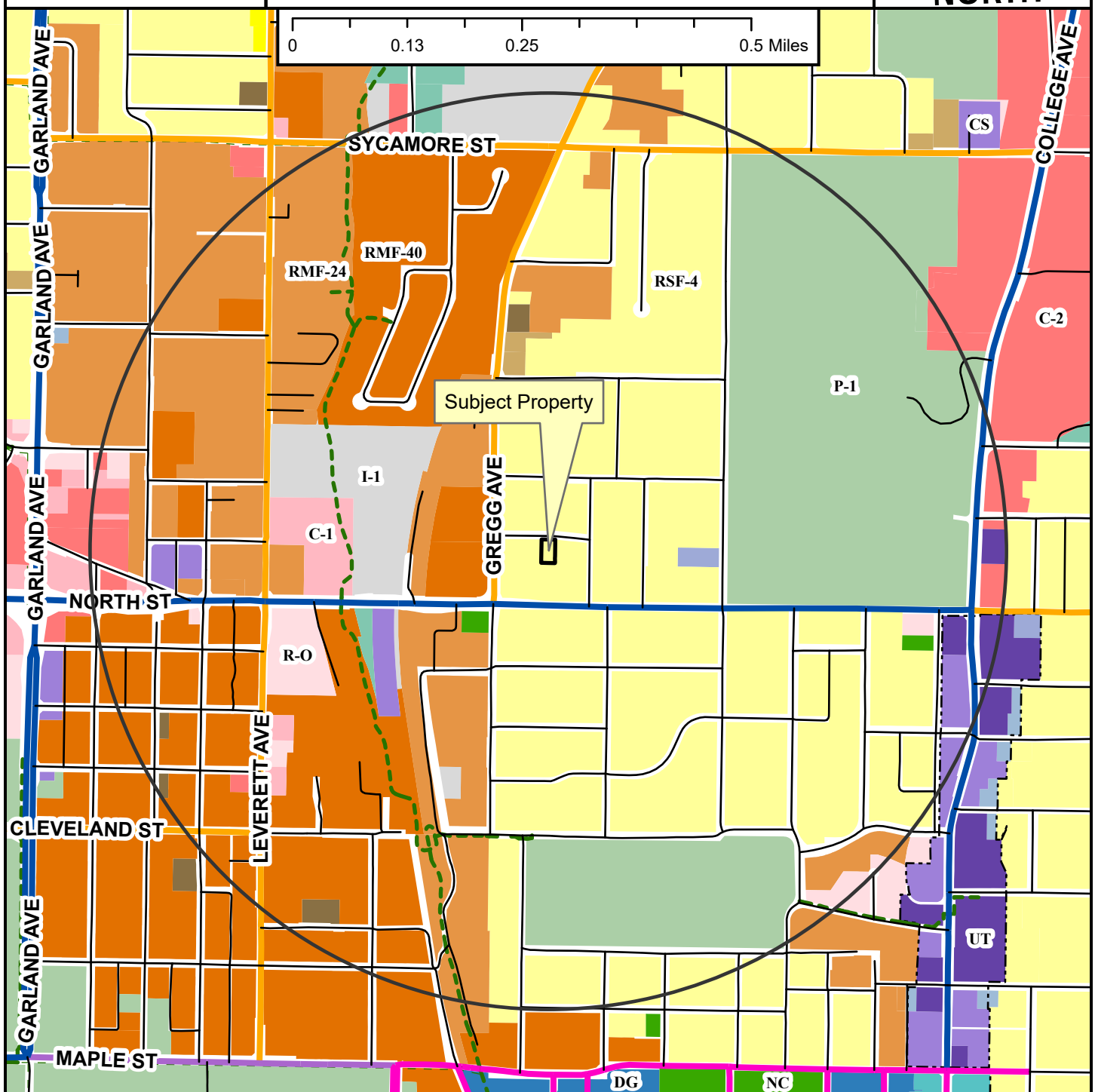


CUP-2023-0083

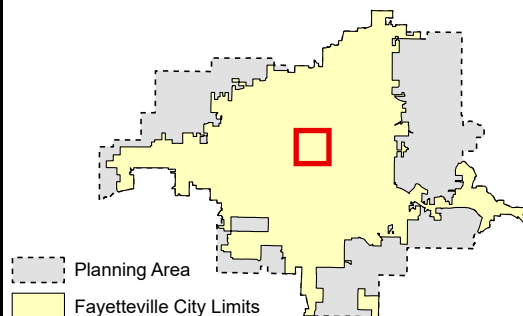
411 W. PATRICIA LN

One Mile View

NORTH



-  Neighborhood Link
-  Institutional Master Plan
-  Regional Link - High Activity
-  Urban Center
-  Unclassified
-  Alley
-  Residential Link
-  Shared-Use Paved Trail
-  Trail (Proposed)
-  Design Overlay District
-  Fayetteville City Limits
-  Planning Area

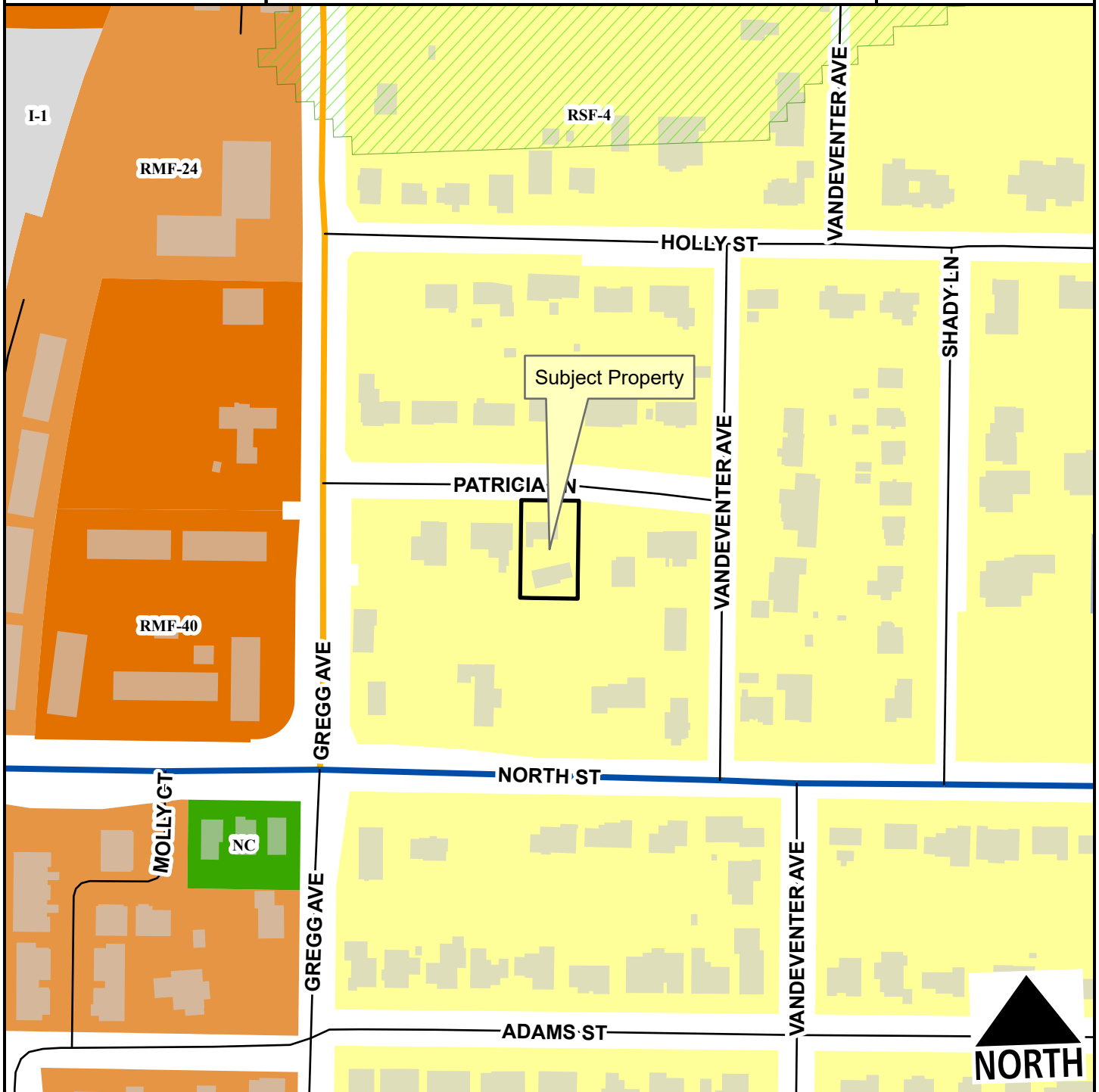


-
- Zoning**
- I-2 General Industrial
 - E-1
 - COMMERCIAL**
- RESIDENTIAL SINGLE-FAMILY**
- NS-G
 - RI-U
 - RI-12
 - NS-L
 - Residential-Agricultural
 - RSF-5
 - RSF-1
 - RSF-2
 - RSF-4
 - RSF-7
 - RSF-8
 - RSF-18
- RESIDENTIAL MULTI-FAMILY**
- RMF-6
 - RMF-12
 - RMF-18
 - RMF-24
 - RMF-40
- INDUSTRIAL**
- I-1 Heavy Commercial and Light Industrial
- FORM BASED DISTRICTS**
- Downtown Core
 - Urban Thoroughfare
 - Main Street Center
 - Downtown General
 - Community Services
 - Neighborhood Services
 - Neighborhood Conservation
- PLANNED ZONING DISTRICTS**
- Commercial, Industrial, Residential
- INSTITUTIONAL**
- P-1

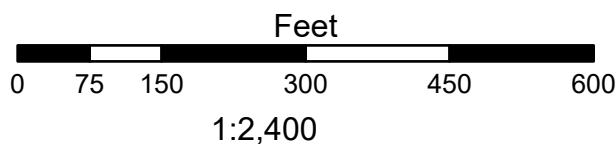
CUP-2023-0083

411 W. PATRICIA LN

Close Up View



- Neighborhood Link
- Regional Link - High Activity
- Unclassified
- Residential Link
- ▨ Hillside-Hilltop Overlay District
- Planning Area
- Fayetteville City Limits



- ▨ RSF-4
- ▨ RMF-24
- ▨ RMF-40
- ▨ I-1 Heavy Commercial and Light Industrial
- ▨ Neighborhood Services - Gen.
- ▨ Neighborhood Conservation

Planning Commission

August 14, 2023

CUP-2023-0083

411 W. PATRICIA LN

Current Land Use



- Neighborhood Link
- Regional Link - High Activity
- Unclassified
- Residential Link
- Planning Area
- Fayetteville City Limits



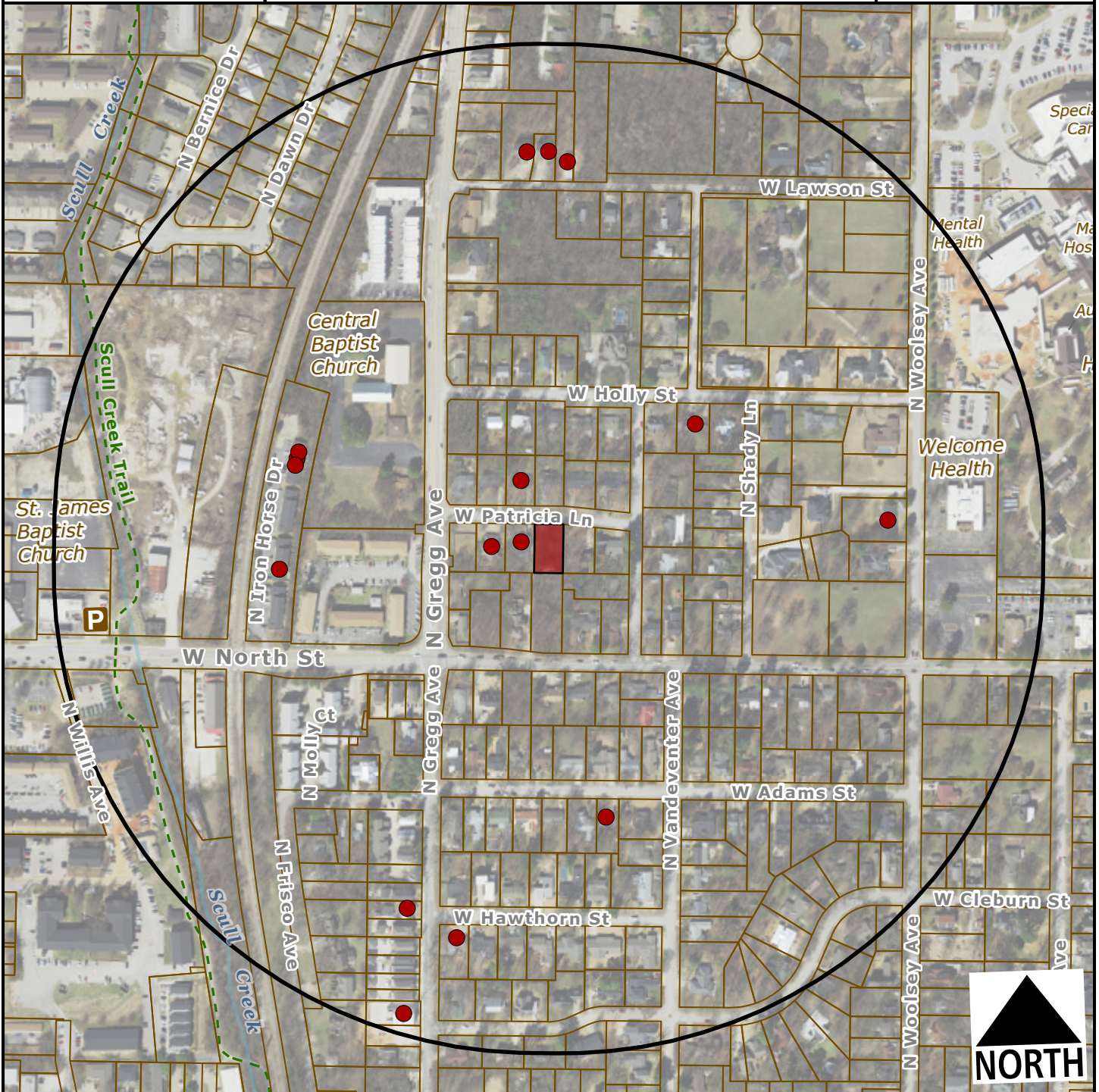
FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

CUP-2023-0083

411 W. PATRICIA LN

STRs Within 1/4 Mile



-  Subject Property
-  Short Term Rental, Type 2



Number of STR Licenses

Total 16



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: August 14, 2023

SUBJECT: **CUP-2023-0076: Conditional Use Permit (1625 N. BOXLEY AVE/DUNCAN, 399):** Submitted by BRENT JOHNSON for property located at 1625 N. BOXLEY AVE. The property is zoned RI-12, RESIDENTIAL INTERMEDIATE, 12 UNITS PER ACRE and contains approximately 0.10 acres. The request is to use the property as a short-term rental.

RECOMMENDATION:

Staff recommends approval of **CUP-2023-0076**, with conditions as outlined by staff.

RECOMMENDED MOTION:

*"I move to approve **CUP-2023-0076** with conditions, determining:*

- In favor of compatibility with adjacent properties;*
- In favor of all other conditions as recommended by staff."*

BACKGROUND:

The subject property is located in west Fayetteville approximately 300 feet southwest of Red Oak Park and 0.5 miles north of W. Wedington Drive. The property is zoned RI-12, Residential Intermediate, Twelve Units per Acre, with no overlay districts. The parcel totals approximately 0.10 acres. A 1,232 square foot attached single-family dwelling was constructed on the parcel in 1996 per the Washington County Assessor. On April 20, 2021, City Council adopted an ordinance to regulate short-term rentals operating within its limits. On December 20, 2022, City Council amended the ordinance to enact new requirements for short-term rentals, and on July 6, 2023, City Council amended the Type 2 short-term rental density cap requirements from 2% city-wide, to 475 total. This report reflects those new changes for consideration. Surrounding land use and zoning are depicted in *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Single-family Residential	RI-12, Residential Intermediate, 12 Units per Acre
South	Single-family Residential	RI-12, Residential Intermediate, 12 Units per Acre
East	Single-family Residential	RI-12, Residential Intermediate, 12 Units per Acre
West	Single-family Residential	RSF-4, Residential Single-family, 4 Units per Acre

City Plan 2040 Future Land Use Designation: **Residential Neighborhood.**

Proposal: The applicant requests conditional use permit approval to use the property as a Type 2 short-term rental, which are those not occupied by a permanent resident. Type 2 short-term rentals are subject to density limitations, including a citywide cap of 475 units, and restrictions on the number of units that may be used as a short-term rental in multi-family dwelling complexes.

Public Comment: Staff has not received any public comment on the item to date.

RECOMMENDATION: Staff recommends approval of **CUP-2023-0076**, with the following conditions;

Conditions of Approval:

1. **Planning Commission determination of compatibility.** *Staff finds the proposed short-term rental to be compatible with the neighborhood based on the findings in this report;*
2. Approval of the conditional use permit does not ensure approval of a business license application. The applicant must still be able to comply with all other applicable requirements in the development code.
3. Per §166.20, Expiration of Approved Plans and Permits, a business license must be obtained within 1 year of conditional use permit approval.
4. Per ordinance, the number of occupants is limited to a maximum of two people per bedroom, plus two, for the entire unit when the property is operated as a short-term rental.
5. Special events including, but not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars are prohibited from occurring in the short-term rental.
6. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.
7. All trash receptacles shall be screened from view of the right-of-way.
8. All outdoor lighting shall meet requirements as outlined in §176, Outdoor Lighting.
9. Any signage shall meet the requirements as outlined in §174, Signage.
10. Per §120.02(A), the owners of only short-term rentals shall be required to designate and register their Landlord's Representative into the Landlord's Representative Registry.
11. Structures shall be evaluated by the Building Safety Director and/or Fire Marshal for adequate fire protection as defined by the adopted Arkansas Fire Prevention Code per §118.01(E)(16)(d). Where inadequate fire protection is identified, improvements may be required prior to issuance of a business license.

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>August 14, 2023</u>	☐ Tabled	☐ Approved	☐ Denied
Motion:			
Second:			
Vote:			

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

1. Hear and decide only such special exemptions as it is specifically authorized to pass on by the terms of this chapter.
2. Decide such questions as are involved in determining whether a conditional use should be granted; and,
3. Grant a conditional use with such conditions and safeguards as are appropriate under this chapter; or
4. Deny a conditional use when not in harmony with the purpose and intent of this chapter.

C. A conditional use shall not be granted by the Planning Commission unless and until:

1. A written application for a conditional use is submitted indicating the section of this chapter under which the conditional use is sought and stating the grounds on which it is requested.

Finding: **The applicant has submitted a written application requesting a conditional use permit for a Type 2 short-term rental RI-12 zoning district.**

2. The applicant shall pay a filing fee as required under Chapter 159 to cover the cost of expenses incurred in connection with processing such application.

Finding: **The applicant has paid the required filing fee.**

3. The Planning Commission shall make the following written findings before a conditional use shall be issued:

(a.) That it is empowered under the section of this chapter described in the application to grant the conditional use; and

Finding: The Planning Commission is empowered under Unified Development Code §118.01(E)(2) to grant the requested conditional use permit.

(b.) That the granting of the conditional use will not adversely affect the public interest.

Finding: Staff finds that granting the requested conditional use is unlikely to negatively affect the public interest, given the applicable business license requirements including a required building safety inspection, and applicable density caps on Type 2 short-term rentals. Additionally, since the total number of attached residential dwelling units will exceed 10% if both this unit and the attached townhome are approved as requested, the structure must be evaluated for adequate fire protection per §118.01(E)(16)(d).

(c.) The Planning Commission shall certify:

(1.) Compliance with the specific rules governing individual conditional uses; and

Finding: There are specific rules governing Short-Term Rentals, as follows:

§163.18 - SHORT-TERM RENTALS

A. General Standards.

(1) *Residential Zoning Districts.* Residential Zoning Districts. Type 2 short-term rentals may be permitted as a conditional use in the following residential zoning districts: R-A, RSF-.5, RSF-1, RSF-2, RSF-4, RSF-7, RSF-8, RSF-18, RI-12, RI-U, RMF-6, RMF-12, RMF-18, RMF-24, RMF-40, NC. Short term rentals may be permitted by right or by conditional use in planned zoning districts subject to the zoning regulations enacted by the City Council for each district. Short-term rentals in non-residential zoning districts, mixed use zoning districts, or other zoning districts not listed above are not required to apply for a conditional use permit.

Finding: The request is to operate a Short-Term Rental, Use Unit 46, in RI-12 zoning, which requires a conditional use permit.

(2) *Occupancy.* Maximum of two (2) people per bedroom, plus two (2), for the entire unit when operated as a short-term rental.

Finding: The dwelling has three bedrooms, which would limit occupancy to eight (8) guests as described in UDC §163.18(A)(3). Occupancy limitations are confirmed by the applicant during licensing.

(3) *Parking.* Parking is limited to the maximum number of vehicles as allowed by the underlying zoning district for the residential building on the property.

Finding: Parking is limited as described in UDC §163.18(C). Parking for single-family dwellings is required to be provided at a rate of two spaces per unit, and up to four vehicles are permitted to be parked outdoors on the property.

According to the applicant the structure has three bedrooms and up to four off-street parking spaces; two spaces in an attached garage and another two in the driveway.

(4) Special events are not permitted in a short-term rental. Example of special events include, but are not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars.

Finding: The application letter suggests the property will comply with the City's regulations for a short-term rental. As a condition of approval, staff recommends a prohibition on special events.

(5) Short-term rental units are allowed in any structure established as a permanent residential dwelling including an accessory dwelling unit. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

Finding: The application is for use of the property at 1625 N. Boxley Avenue. Staff recommends a condition confirming that no recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

(6) Exceptions. Exceptions to the short-term rental standards, except proposals that would exceed the city-wide density maximum, may be granted by the Planning Commission as a conditional use permit.

Finding: Type 2 short-term rentals are subject to a citywide density cap at 475 business licenses. As of August 7, 2023, the City had issued 392 Type 2 short-term rental licenses. Granting a CUP for this location would entitle the applicant to apply for a business license, but does not guarantee its approval.

(7) Short-term rentals must comply with all applicable codes under City Code §118.01 and successfully obtain a business license prior to operation.

Finding: This short-term rental would be subject to all codes in Business Regulations §118.01 that apply to Type 2 short-term rentals in residential zoning districts. Applicable business licensing requirements will be reviewed by staff and confirmed by the applicant at the time of licensing.

(8) Short-term rentals in residential zoning districts may be subject to denial or additional conditions based upon the Planning Commission's findings on the following factors:

- 1) Adequate parking infrastructure;
- 2) Adequate adjoining or nearby streets for on-street parking;
- 3) Frequency or concentration of nearby licensed Type 2 short-term rentals; and
- 4) Prior zoning or code violations.

Finding: There appears to be adequate parking available to support the use of the property as a short-term rental based on the applicant's submittal. A total of four off-street parking spaces will be available for guests in an existing driveway and garage. On-street parking is available along N. Boxley Avenue. City records indicate zero other units within a quarter-mile radius have active

Type 2 short-term rental business licenses, though recognize that the attached unit (1623 N. Boxley) is also seeking approval for a conditional use permit. No prior zoning or code violations have been reported on this property.

§163.02, AUTHORITY; CONDITIONS; PROCEDURES. (continued)

(2.) That satisfactory provisions and arrangements have been made concerning the following, where applicable:

(a.) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe;

Finding: The parcel has frontage along N. Boxley Avenue, a partially improved residential link with sidewalk along the western side. The street appears to have sufficient width to support on-street parking. Staff finds the proposal will not adversely affect traffic flows considering the use of the property would be limited to a maximum of eight (8) guests, which would not be out of character with use of the property for residential purposes.

(b.) Off-street parking and loading areas where required, with particular attention to ingress and egress, economic, noise, glare, or odor effects of the special exception on adjoining properties and properties generally in the district;

Finding: The dwelling has a two-car garage with an additional two parking spaces available in the driveway. The short-term rental ordinance limits the number of guest vehicles to the maximum number of vehicles as allowed by the underlying zoning district.

(c.) Refuse and service areas, with particular reference to ingress and egress, and off-street parking and loading,

Finding: The applicant proposes typical residential trash cart service stored on the exterior garage side. Staff recommends storage of the containers should be screened from public view when not at the curb for residential pick-up.

(d.) Utilities, with reference to locations, availability, and compatibility;

Finding: Utilities are currently available to the site, and the use as a short-term rental is not anticipated to impact the provision of utilities.

(e.) Screening and buffering with reference to type, dimensions, and character;

Finding: Staff recommends that residential carts be screened so that they are not visible from the public right-of-way.

- (f.) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;

Finding: Any proposed signage will be subject to Unified Development Code section 174 – Signs, and all the regulations therein.

- (g.) Required yards and other open space; and

Finding: Based on the applicant's submittal and city records, the structure is meeting relevant setbacks.

- (h.) General compatibility with adjacent properties and other property in the district.

Finding: Staff finds the proposed use to be compatible with surrounding properties. While the residences along N. Boxley Avenue are almost exclusively attached single-family dwellings, the property is within 0.1 miles of a large duplex development, and is 0.5 miles from W. Wedington Drive, a regional link street with a mix of commercial and residential uses.

- (i.) General compatibility with the goals and intent of the city's adopted land-use, transportation, and other strategic plans.

Finding: Staff finds the proposed use to be somewhat incompatible with the City's adopted land use, transportation, and other strategic plans since short-term rentals do not clearly support any of the goals identified in those plans. However, there are safeguards in place that limit how short-term rentals operate to ensure that the City can still meet those goals, including a citywide density cap of 475 units and restrictions on the number of units that may be used as a short-term rental in multi-family dwelling complexes.

BUDGET/STAFF IMPACT:

None

Attachments:

- Business Regulations
 - §118.01 Applicability
- Unified Development Code
 - §163.18 Type 2 Short-Term Rentals in Residential Zoning Districts
 - §161.11 District RI-12, Residential Intermediate – Twelve (12) Units Per Acre
- Applicant Request Letter
- Site Plan
- Building Floor Plan

- Building Elevations
- One Mile Map
- Close-Up Map
- Current Land Use Map
- Type-2 STRs within ¼ Mile Map

118.01 Applicability

- (E) *Short-Term Rentals.* A residential dwelling unit, portion of a dwelling unit, or bedroom within a residential dwelling unit, leased and/or rented to a guest(s), for a period of less than thirty consecutive (30) days.
- (1) *Short-Term Rental, Type 1.* A short-term rental where the principal use of the property remains as a full-time residence. The occupants or owner rent their primary residence as a short-term rental. A copy of the Homestead Tax Credit or long-term lease agreement for the subject property is required to be classified as a Type 1 rental. The occupant or owner must occupy the residence for nine (9) months of the year. Accessory dwelling units (ADUs) as defined in Unified Development Code Chapter 151 shall be considered a Type 1 short-term rental.
 - (2) *Short-Term Rental, Type 2.* A short-term rental that is not occupied by a permanent resident. The owner lists this property full-time as a short-term rental and has no intention of having permanent residents living in the property. A conditional use permit is required for a Type 2 short-term rental in a residential zoning district prior to the city issuing a business license.
 - (3) *License Required.* No dwelling unit in the city shall be used as a short-term rental unless:
 - (a) The owner of the dwelling unit or operator of the short-term rental possess a valid and current business license for the dwelling unit, and fully complies with all legal requirements and duties imposed herein with respect to each and every short-term rental; and
 - (b) The owner has designated an agent, where said agent fully complies with all legal requirements and duties imposed herein with respect to every short-term rental. The owner may serve as their own agent.
 - (c) The owner of the dwelling unit or operator of the short-term rental provides proof of a valid and current homeowners insurance rider policy which fully covers each unit when operated as short-term rental unit.
 - (4) A separate business license shall be required for each dwelling unit used as a short-term rental.
 - (5) Any change in ownership requires a new or amended business license.
 - (6) If any required contact information changes for the associated business license, the person to whom the license was issued shall immediately notify the Development Services Department in writing.
 - (7) *License Application.* The application for a business license shall include at minimum, the following information from applicants:
 - (a) The property owner's information including legal name, mailing address, immediate contact phone number, and immediate contact E-mail address.
 - (b) Information for the dwelling unit subject to the application, inclusive of the physical street address assigned by the city.
 - (c) The type and total number of dwelling units located on the lot of record containing the dwelling unit subject to the application.
 - (d) If the owner is not their own agent, the owner designated agent's information including legal name, mailing address, immediate contact phone number and immediate contact E-mail address.
 - (e) Documentation of approval of a life safety and egress inspection by the City Building Safety Division for the dwelling unit subject to the application.
 - (f) Proof of application for remittance of hotel, motel and restaurant tax to the City of Fayetteville, and verification that all sales, use, and hotel, motel and restaurant taxes are current.
 - (g) Any additional data as deemed necessary or desirable for permit approval by the Development Services Director.
 - (8) *License Renewals.* Business licenses for short-term rentals shall be renewed in accordance with Chapter 118 of the Business Regulations (Business Registry and Licenses).
 - (11) *Legal Duties of License Holders.* An owner possessing a short-term rental license shall comply at all times with the following requirements:
 - (a) *Occupancy.* Short-term rentals shall be subject to, and may not exceed, the occupancy limits approved with the business license.
 - (b) *Advertisements.* A short-term rental shall not be advertised if it violates occupancy, density, safety, and any of the other provisions of the Fayetteville Code. No short-term rental unit shall be advertised prior to having obtained a business license and the business license number shall be included in the advertisement listing.
 - (c) *Information and Posting.* Business licensees shall provide to guests and post conspicuously in the common area of the short-term rental unit the city phone number to report a safety complaint.
 - (10) *Owner or Agent Accessibility.* The property owner shall ensure that they or a designated agent are available at all times during guest occupancy, including nights and weekends, in order to facilitate compliance with this section. For the purposes of these regulations, 'availability' means that the owner or

agent is accessible by telephone, and, able to be physically present at the short-term rental within three (3) hours of being contacted.

- (11) *Guest Records.* The owner shall maintain summary guest registration records, which shall contain the actual dates of occupancy, total number of guests per party per stay, and the rate(s) charged, but shall not contain any personally identifiable information about guests. Such records shall be maintained for three (3) years and shall be provided to the City upon request.
- (12) *Health and Safety.* The owner shall ensure that each dwelling unit governed by this section complies with the applicable provisions of the Unified Development Code Chapter 173, Building Regulations.
- (13) *Criminal Activity.* The owner shall timely report any known or reasonably suspected criminal activity by a guest to the Fayetteville Police Department within twelve (12) hours maximum.
- (14) *Taxes and Fees.* Except for those instances in which a hosting platform bears the responsibility for collecting and remitting taxes and fees applicable to short-term rentals, the property owner shall timely remit in full Fayetteville Hotel, Motel and Restaurant tax and other applicable local, state, and federal taxes and city fees owed in connection with any short-term rental. The failure of a hosting platform to collect and remit taxes and fees shall not relieve an owner of the obligation to pay taxes and fees owed pursuant to this section.
- (15) *Authorization to Occupy, Use, and Operate.* Authorization to operate a short-term rental may be granted by the Development Services Director through the issuance of a City of Fayetteville Business Registry and License (Business License).
- (16) *Density For Type 2 Short-Term Rentals.* A city-wide density cap of 2% of all dwelling units in the Fayetteville city limits may be utilized as Type 2 rentals. Total dwelling units are determined from current United States Census Bureau and/or American Community Survey numbers, whichever number is higher. A conditional use permit may not permit:
 - (a) More Type 2 short-term rentals than what is allowed by the city-wide density cap. Type 2 short-term rentals in commercial and mixed-use zoning districts where hotel/motels are permitted by right shall not contribute to the city-wide density cap.
 - (b) More than 10% or a single unit whichever is greater; of total dwelling units as Type 2 rentals within a multi-family dwelling complex.
 - (c) Individual 2-, 3- and 4-family buildings that are owned by the same person or entity and are not a part of a multi-family complex shall have no more than one (1) Type 2 short-term rental unit per building complex.
 - (d) Where attached residential units are held separately through condominium association, horizontal property regime, fee simple, or similar ownership structure, no cap shall be applied to buildings with attached residential dwellings. Structures of attached residential dwellings where applicants seek more than 10% of total units for licensing as Type 2 rentals shall be evaluated by the Building Safety Director and/or Fire Marshal for adequate fire protection as defined by the adopted Arkansas Fire Prevention Code. Where inadequate fire protection is identified, improvements may be required prior to issuance of a business license.
- (17) *Suspension and Revocation.* If the Development Services Director has reason to believe that any of the grounds specified in §118.03(A) of the Fayetteville Code exist, or that any rental unit was rented for less than one (1) full night, or to more than one (1) part of guests for the same period of time, or otherwise failed to comply with all terms and conditions of this section, the Development Services Director may suspend or revoke the short-term rental's business license pursuant to the procedures detailed in §118.03 and in §118.04 of the Fayetteville Code.
- (18) Short-term rentals must comply with all applicable codes under Unified Development Code §163.18 and § 164.26 successfully obtain a business license prior to operation.

(Ord. No. 6427 , §§1(Exh. A), 2, 4-20-21; Ord. No. 6505 , §1(Exh. A), 11-16-21; Ord. No. 6521 , §§1, 2, 1-18-22; Ord. No. 6537 , §1(Exh. A), 2-15-22)

163.18 Type 2 Short-Term Rentals in Residential Zoning Districts

- (A) *Residential Zoning Districts.* Type 2 short-term rentals may be permitted as a conditional use in the following residential zoning districts:

- 1) R-A
- 2) RSF-.5
- 3) RSF-1
- 4) RSF-2
- 5) RSF-4
- 6) RSF-7
- 7) RSF-8
- 8) RSF-18
- 9) RI-12
- 10) RI-U
- 11) RMF-6
- 12) RMF-12
- 13) RMF-18
- 14) RMF-24
- 15) RMF-40
- 16) NC

Short term rentals may be permitted by right or by conditional use in planned zoning districts subject to the zoning regulations enacted by the City Council for each district.

Short-term rentals in non-residential zoning districts, mixed use zoning districts, or other zoning districts not listed above are not required to apply for a conditional use permit.

- (B) *Occupancy.* Maximum of two (2) people per bedroom, plus two (2), for the entire unit when operated as a short-term rental.
- (C) *Parking.* Parking is limited to the maximum number of vehicles as allowed by the underlying zoning district for the residential building on the property.
- (D) Special events are not permitted in a short-term rental. Example of special events include, but are not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars.
- (E) Short-term rental units are allowed in any structure established as a permanent residential dwelling including an accessory dwelling unit. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.
- (F) *Exceptions.* Exceptions to the short-term rental standards, except proposals that would exceed the city-wide density maximum, may be granted by the Planning Commission as a conditional use permit.
- (G) Short-term rentals must comply with all applicable codes under City Code §118.01 and successfully obtain a business license prior to operation.
- (H) Short-term rentals in residential zoning districts may be subject to denial or additional conditions based upon the Planning Commission's findings on the following factors:
- 1) Adequate parking infrastructure;
 - 2) Adequate adjoining or nearby streets for on-street parking;
 - 3) Frequency or concentration of nearby licensed Type 2 short-term rentals; and
 - 4) Prior zoning or code violations

(Ord. No. 6427 , §§1(Exh. E), 2, 4-20-21; Ord. No. 6505 , §2(Exh. B), 11-16-21; Ord. No. 6537 , §2(Exh. B), 2-15-22)

161.11 District RI-12, Residential Intermediate, Twelve (12) Units Per Acre

(A) *Purpose.* The RI-12 Residential District is designed to permit and encourage the development of detached and attached dwellings in suitable environments, to provide a development potential between low density and medium density with less impact than medium density development, to encourage the development of areas with existing public facilities and to encourage the development of a greater variety of housing values.

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two (2) family dwellings
Unit 10	Three (3) and four (4) family dwellings
Unit 41	Accessory dwellings
Unit 44	Cluster Housing Development
Unit 46	Short-term rentals

(2) *Conditional Uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 12a	Limited business
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	12
----------------	----

(D) *Bulk and Area Regulations.*

	Single-family	Two (2) family	Three (3) family
Lot width minimum	50 feet	50 feet	90 feet
Lot area minimum	5,000 square feet	7,260 square feet	10,890 square feet.

(E) *Setback Requirements.*

Front	Side Other Uses	Side Single & Two (2) family	Rear Other Uses	Rear Single Family
A build-to zone that is located between the front property line and a line 25 feet from the front property line.	8 feet	5 feet	20 feet	5 feet

(F) *Building Height Regulations.*

Building height maximum	2 stories/3 stories*
-------------------------	----------------------

* A building or a portion of a building that is located between 0 and 10 feet from the front property line or any master street plan right-of-way line shall have a maximum height of two (2) stories. Buildings or portions of the building set back greater than 10 feet from the master street plan right-of-way shall have a maximum height of three (3) stories.

- (G) *Building Area.* The area occupied by all buildings shall not exceed 50% of the total lot area. Accessory ground mounted solar energy systems shall not be considered buildings.
- (H) *Minimum Buildable Street Frontage.* 50% of the lot width.

(Code 1965, App. A., Art. 5(IIA); Ord. No. 3128, 10-1-85; Code 1991, §160.032; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. No. 5028, 6-19-07; Ord. No. 5224, 3-3-09; Ord. No. 5262, 8-4-09; Ord. No. 5312, 4-20-10; Ord. No. 5462, 12-6-11; Ord. No. 5592, 06-18-13; Ord. No. 5664, 2-18-14; Ord. No. 5800, §1(Exh. A), 10-6-15; Ord. No. 5921, §1, 11-1-16; Ord. No. 5945, §§4, 8, 9, 1-17-17; Ord. No. 6015, §1(Exh. A), 11-21-17; Ord. No. 6245, §2, 10-15-19; Ord. No. 6427, §§1(Exh. C), 2, 4-20-21)

Editor's note(s)—Ord. No. 6625, §1 adopted December 6, 2022, "determines that Section 2 of Ordinance 6427 (Sunset Clause) be amended so that Ordinance 6427 and all amendments to Code Sections ordained or enacted by Ordinance 6427 shall automatically sunset, be repealed and become void on December 31, 2023, unless prior to that date the City Council amends this ordinance to repeal or further amend this sunset, repeal and termination section."

Complete Description of 1625 N BOXLEY AVENUE

The complete description of the property at 1625 N Boxley Avenue, Fayetteville AR 72704 is as follows:

- Building size in square feet; existing and proposed: 1,232 ft².
- Color elevations of all exterior sides of the structure: Brick exterior with aluminum siding on garage ports.
- Number of off-street parking spaces to be provided/number required: four (4).
- When request applies to a business or non-residential use: N/A
 - o Hours of operation: N/A
 - o Number of employees: N/A
 - o Anticipated number of patrons, clients, children, customers, etc. (average per day / peak hour): N/A
- Outdoor lighting: Lighting provided at the entryway of property in front of the front door and lighting provided at the backdoor of the property.
- Noise: The property is intended as a residential leasing property with strict rules against excessive noise and further nuisances to the surrounding property.
- Screening or buffering from adjacent properties: a six-foot-tall fence runs along the back of the property separating adjacent properties to the west of applicant's property. There is no fence separating the exterior of the property with the property directly to the North of the applicant's property.
- Trash and refuse service (with particular reference to visibility from the street and adjacent properties): Trash cans are kept on the exterior side of the garage port

and are serviced by the City of Fayetteville's Residential Waste Management Services.

- Ingress and egress to the property; traffic impacts: The property has a driveway connected to N Boxley Avenue.
- A response discussing the general compatibility of the proposed use with adjacent properties and other property in the neighborhood: Applicant has also purchased the dwelling connected to the property as a complete duplex. The applicant has no intention of involving further adjacent properties in short-term leaseholder properties. Additionally, as a short-term rental space intended for residential use, the property being used as such is compatible with the residential neighborhood surrounding it.

The current owners of 1625 N Boxley Avenue, Fayetteville AR 72704, LaDeana Duncan and Sir Duncan, intend to file a short-term lease application with the city of Fayetteville in tandem with this conditional use application. The intention of this property and the adjacent connected property at 1623 N Boxley Avenue are to be run as short-term leasing properties for residential use only.



Figure 1: Site Plan

Building Sketch

Borrower	Duncan, Sir & LaDeana				
Property Address	1625 N Boxley Ave				
City	Fayetteville	County	Washington	State	AR Zip Code 72704
Lender/Client	First Community Bank				

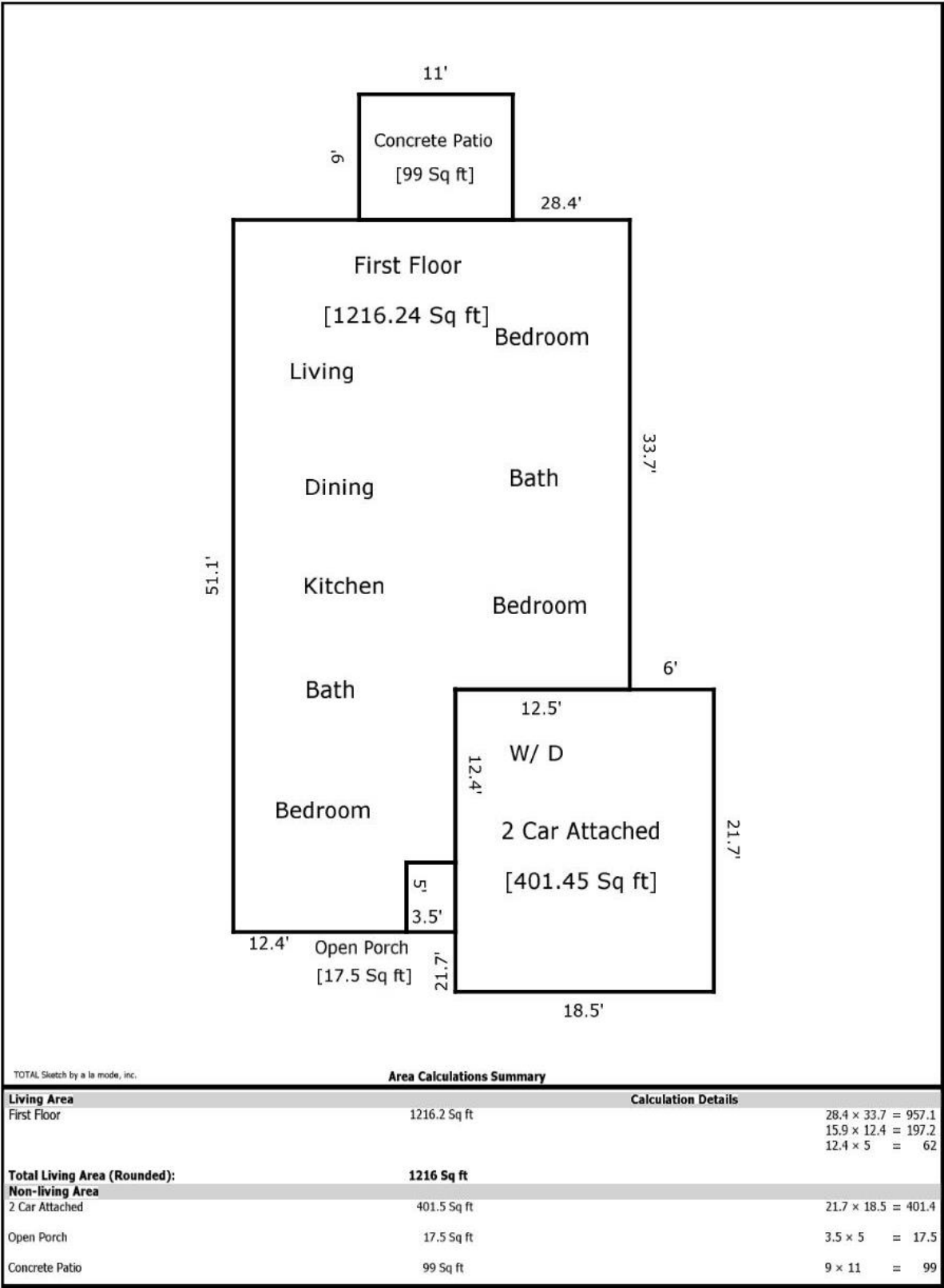


Figure 2: Floor Plan



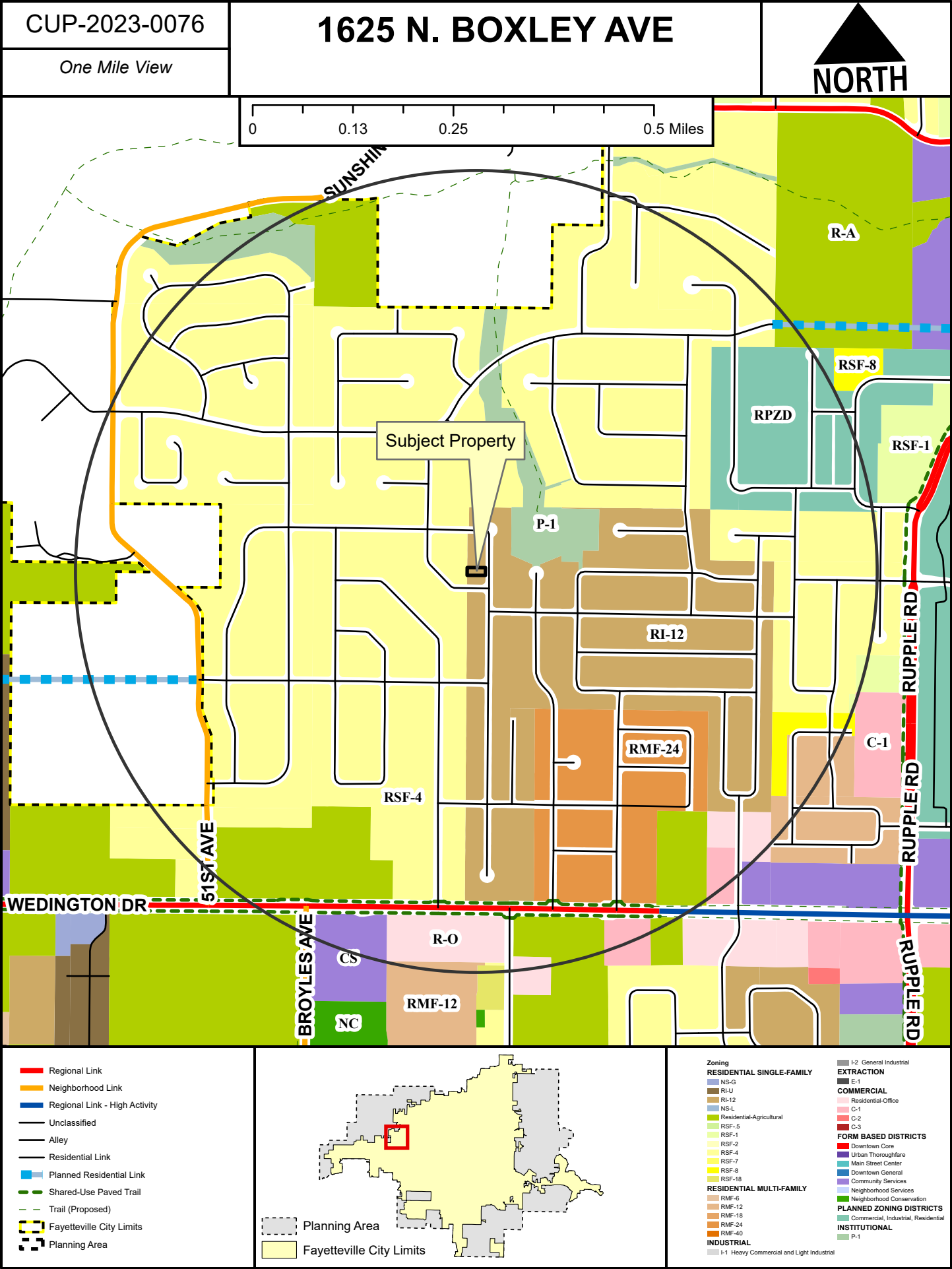
Figure 3: Rear Yard



Figure 4: Side Yard



Figure 5: Front Yard



Regional Link

Neighborhood Link

Regional Link - High Activity

Unclassified

Alley

Residential Link

Planned Residential Link

Shared-Use Paved Trail

Trail (Proposed)

Fayetteville City Limits

Planning Area

Planning Area

Fayetteville City Limits

Zoning

RESIDENTIAL SINGLE-FAMILY

NS-G

RI-U

RI-12

NS-L

Residential-Agricultural

RSF-5

RSF-2

RSF-4

RSF-7

RSF-8

RSF-18

RESIDENTIAL MULTI-FAMILY

RMF-6

RMF-12

RMF-13

RMF-24

RMF-40

INDUSTRIAL

I-1 Heavy Commercial and Light Industrial

I-2 General Industrial

EXTRACTION

E-1

COMMERCIAL

Residential-Office

C-1

C-2

C-3

FORM BASED DISTRICTS

Downtown Core

Urban Thoroughfare

Main Street Center

Downtown General

Community Services

Neighborhood Services

Neighborhood Conservation

PLANNED ZONING DISTRICTS

Commercial, Industrial, Residential

INSTITUTIONAL

P-1

Planning Commission

August 14, 2023

CUP-2023-0076 (DUNCAN)

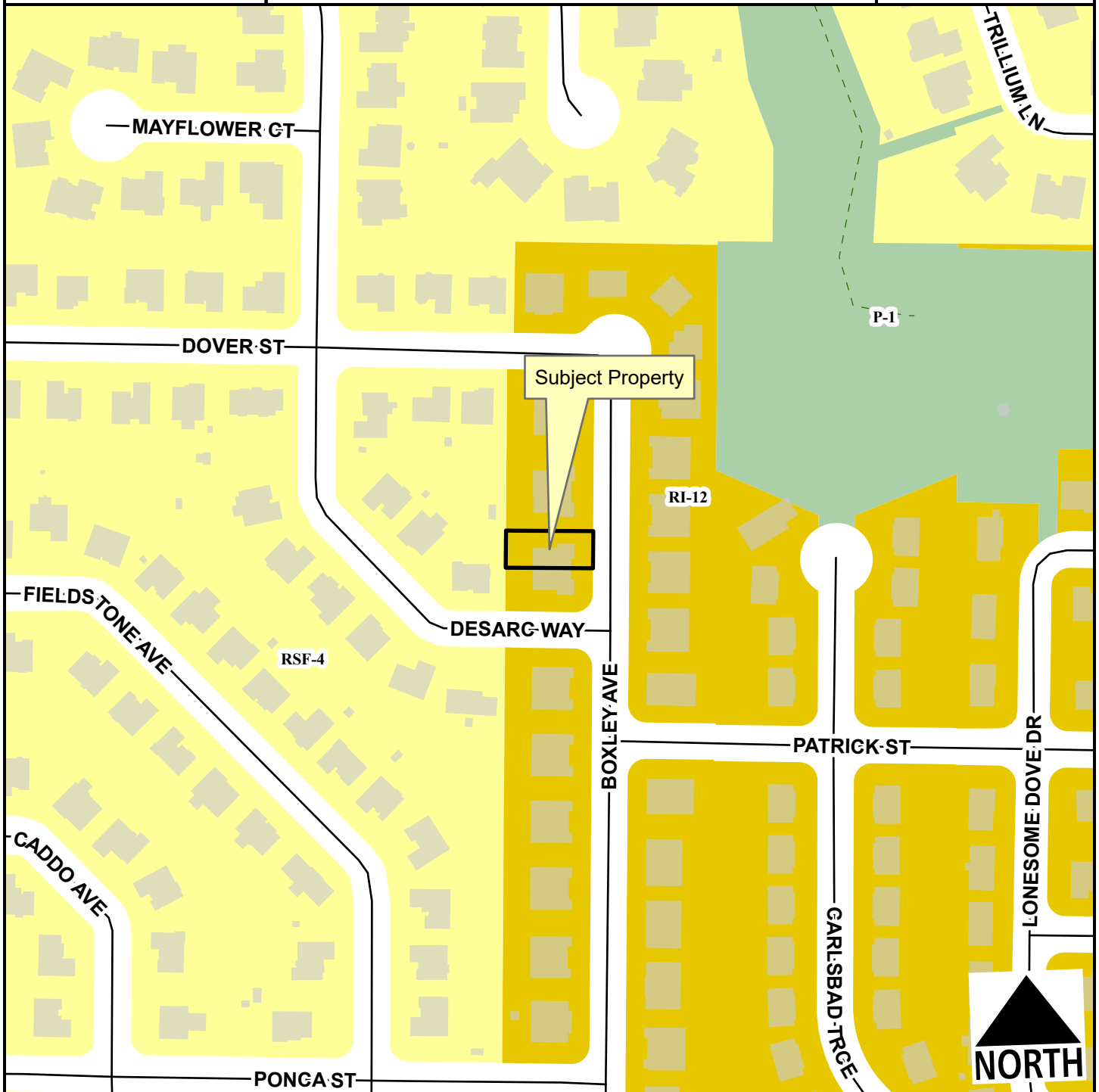
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CUP-2023-0076

1625 N. BOXLEY AVE

Close Up View



- Residential Link
- Planning Area
- Fayetteville City Limits
- Trail (Proposed)



- RSF-4
- RI-12
- P-1

CUP-2023-0076

1625 N. BOXLEY AVE

Current Land Use



- Residential Link
- - - Trail (Proposed)
- - - Planning Area
- - - Fayetteville City Limits



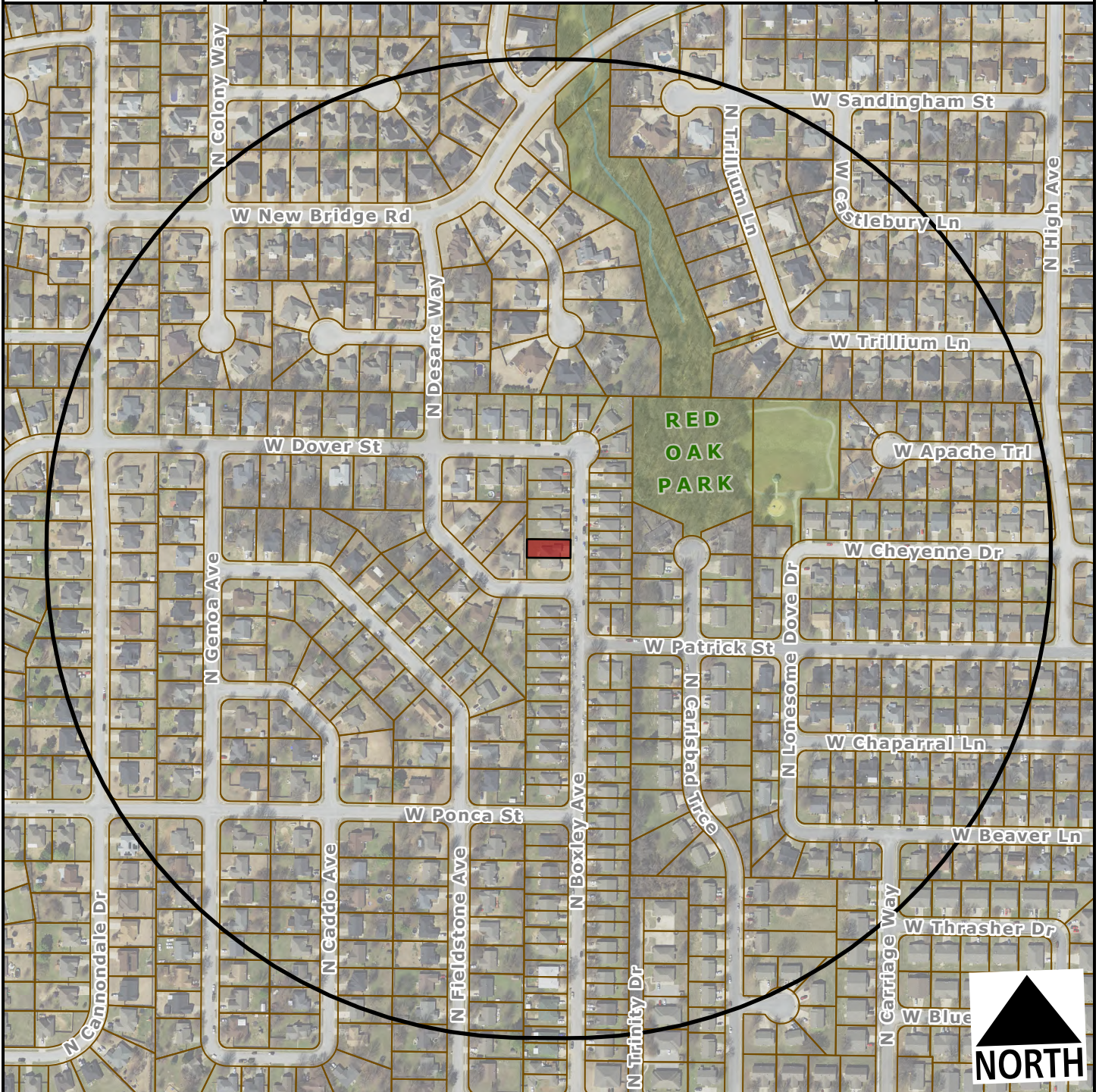
FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

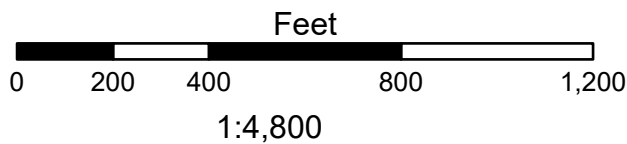
CUP-2023-0076

1625 N. BOXLEY AVE

STRs Within 1/4 Mile



-  Subject Property
-  Short Term Rental, Type 2



Number of STR Licenses

Total 0



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: August 14, 2023

SUBJECT: **CUP-2023-0077: Conditional Use Permit (1623 N. BOXLEY AVE/DUNCAN, 399):** Submitted by BRENT JOHNSON for property located at 1623 N. BOXLEY AVE. The property is zoned RI-12, RESIDENTIAL INTERMEDIATE, 12 UNITS PER ACRE and contains approximately 0.20 acres. The request is to use the property as a short-term rental.

RECOMMENDATION:

Staff recommends approval of **CUP-2023-0077**, with conditions as outlined by staff.

RECOMMENDED MOTION:

*"I move to approve **CUP-2023-0077** with conditions, determining:*

- In favor of compatibility with adjacent properties;*
- In favor of all other conditions as recommended by staff."*

BACKGROUND:

The subject property is located in west Fayetteville at the northwest intersection of N. Boxley Avenue and N. Desare Way, approximately 300 feet southwest of Red Oak Park and 0.5 miles north of W. Wedington Drive. The property is zoned RI-12, Residential Intermediate, Twelve Units per Acre, with no overlay districts. The parcel totals approximately 0.20 acres. A 1,232 square foot attached single-family dwelling was constructed on the parcel in 1996 per the Washington County Assessor. On April 20, 2021, City Council adopted an ordinance to regulate short-term rentals operating within its limits. On December 20, 2022, City Council amended the ordinance to enact new requirements for short-term rentals, and on July 6, 2023, City Council amended the Type 2 short-term rental density cap requirements from 2% city-wide, to 475 total. This report reflects those new changes for consideration. Surrounding land use and zoning are depicted in *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Single-family Residential	RI-12, Residential Intermediate, 12 Units per Acre
South	Single-family Residential	RI-12, Residential Intermediate, 12 Units per Acre
East	Single-family Residential	RI-12, Residential Intermediate, 12 Units per Acre
West	Single-family Residential	RSF-4, Residential Single-family, 4 Units per Acre

City Plan 2040 Future Land Use Designation: **Residential Neighborhood.**

Proposal: The applicant requests conditional use permit approval to use the property as a Type 2 short-term rental, which are those not occupied by a permanent resident. Type 2 short-term rentals are subject to density limitations, including a citywide cap of 475 units, and restrictions on the number of units that may be used as a short-term rental in multi-family dwelling complexes.

Public Comment: Staff has not received any public comment on this item to date.

RECOMMENDATION: Staff recommends approval of **CUP-2023-0077**, with the following conditions;

Conditions of Approval:

1. **Planning Commission determination of compatibility.** *Staff finds the proposed short-term rental to be compatible with the neighborhood based on the findings in this report;*
2. Approval of the conditional use permit does not ensure approval of a business license application. The applicant must still be able to comply with all other applicable requirements in the development code.
3. Per §166.20, Expiration of Approved Plans and Permits, a business license must be obtained within 1 year of conditional use permit approval.
4. Per ordinance, the number of occupants is limited to a maximum of two people per bedroom, plus two, for the entire unit when the property is operated as a short-term rental.
5. Special events including, but not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars are prohibited from occurring in the short-term rental.
6. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.
7. All trash receptacles shall be screened from view of the right-of-way.
8. All outdoor lighting shall meet requirements as outlined in §176, Outdoor Lighting.
9. Any signage shall meet the requirements as outlined in §174, Signage.
10. Per §120.02(A), the owners of only short-term rentals shall be required to designate and register their Landlord's Representative into the Landlord's Representative Registry.
11. Structures shall be evaluated by the Building Safety Director and/or Fire Marshal for adequate fire protection as defined by the adopted Arkansas Fire Prevention Code per §118.01(E)(16)(d). Where inadequate fire protection is identified, improvements may be required prior to issuance of a business license.

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>August 14, 2023</u>	☐ Tabled	☐ Approved	☐ Denied
Motion:			
Second:			
Vote:			

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

1. Hear and decide only such special exemptions as it is specifically authorized to pass on by the terms of this chapter.
2. Decide such questions as are involved in determining whether a conditional use should be granted; and,
3. Grant a conditional use with such conditions and safeguards as are appropriate under this chapter; or
4. Deny a conditional use when not in harmony with the purpose and intent of this chapter.

C. A conditional use shall not be granted by the Planning Commission unless and until:

1. A written application for a conditional use is submitted indicating the section of this chapter under which the conditional use is sought and stating the grounds on which it is requested.

Finding: **The applicant has submitted a written application requesting a conditional use permit for a Type 2 short-term rental RI-12 zoning district.**

2. The applicant shall pay a filing fee as required under Chapter 159 to cover the cost of expenses incurred in connection with processing such application.

Finding: **The applicant has paid the required filing fee.**

3. The Planning Commission shall make the following written findings before a conditional use shall be issued:

(a.) That it is empowered under the section of this chapter described in the application to grant the conditional use; and

Finding: The Planning Commission is empowered under Unified Development Code §118.01(E)(2) to grant the requested conditional use permit.

(b.) That the granting of the conditional use will not adversely affect the public interest.

Finding: Staff finds that granting the requested conditional use is unlikely to negatively affect the public interest, given the applicable business license requirements including a required building safety inspection, and applicable density caps on Type 2 short-term rentals. Additionally, since the total number of attached residential dwelling units will exceed 10% if both this unit and the attached townhome are approved as requested, the structure must be evaluated for adequate fire protection per §118.01(E)(16)(d).

(c.) The Planning Commission shall certify:

(1.) Compliance with the specific rules governing individual conditional uses; and

Finding: There are specific rules governing Short-Term Rentals, as follows:

§163.18 - SHORT-TERM RENTALS

A. General Standards.

(1) *Residential Zoning Districts.* Residential Zoning Districts. Type 2 short-term rentals may be permitted as a conditional use in the following residential zoning districts: R-A, RSF-.5, RSF-1, RSF-2, RSF-4, RSF-7, RSF-8, RSF-18, RI-12, RI-U, RMF-6, RMF-12, RMF-18, RMF-24, RMF-40, NC. Short term rentals may be permitted by right or by conditional use in planned zoning districts subject to the zoning regulations enacted by the City Council for each district. Short-term rentals in non-residential zoning districts, mixed use zoning districts, or other zoning districts not listed above are not required to apply for a conditional use permit.

Finding: The request is to operate a Short-Term Rental, Use Unit 46, in RI-12 zoning, which requires a conditional use permit.

(2) *Occupancy.* Maximum of two (2) people per bedroom, plus two (2), for the entire unit when operated as a short-term rental.

Finding: The dwelling has three bedrooms, which would limit occupancy to eight (8) guests as described in UDC §163.18(A)(3). Occupancy limitations are confirmed by the applicant during licensing.

(3) *Parking.* Parking is limited to the maximum number of vehicles as allowed by the underlying zoning district for the residential building on the property.

Finding: Parking is limited as described in UDC §163.18(C). Parking for single-family dwellings is required to be provided at a rate of two spaces per unit, and up to four vehicles are permitted to be parked outdoors on the property.

According to the applicant the structure has three bedrooms and up to four off-street parking spaces; two spaces in an attached garage and another two in the driveway.

(4) Special events are not permitted in a short-term rental. Example of special events include, but are not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars.

Finding: The application letter suggests the property will comply with the City's regulations for a short-term rental. As a condition of approval, staff recommends a prohibition on special events.

(5) Short-term rental units are allowed in any structure established as a permanent residential dwelling including an accessory dwelling unit. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

Finding: The application is for use of the property at 1623 N. Boxley Avenue. Staff recommends a condition confirming that no recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

(6) Exceptions. Exceptions to the short-term rental standards, except proposals that would exceed the city-wide density maximum, may be granted by the Planning Commission as a conditional use permit.

Finding: Type 2 short-term rentals are subject to a citywide density cap at 475 business licenses. As of August 7, 2023, the City had issued 392 Type 2 short-term rental licenses. Granting a CUP for this location would entitle the applicant to apply for a business license, but does not guarantee its approval. No exceptions are being requested to density requirements.

(7) Short-term rentals must comply with all applicable codes under City Code §118.01 and successfully obtain a business license prior to operation.

Finding: This short-term rental would be subject to all codes in Business Regulations §118.01 that apply to Type 2 short-term rentals in residential zoning districts. Applicable business licensing requirements will be reviewed by staff and confirmed by the applicant at the time of licensing.

(8) Short-term rentals in residential zoning districts may be subject to denial or additional conditions based upon the Planning Commission's findings on the following factors:

- 1) Adequate parking infrastructure;
- 2) Adequate adjoining or nearby streets for on-street parking;
- 3) Frequency or concentration of nearby licensed Type 2 short-term rentals; and
- 4) Prior zoning or code violations.

Finding: There appears to be adequate parking available to support the use of the property as a short-term rental based on the applicant's submittal. A total of four off-street parking spaces will be available for guests in an existing driveway and garage. Limited on-street parking is available along N. Boxley Avenue and W. Desare Way given the proximity of the structure to the

intersection. City records indicate zero other units within a quarter-mile radius have active Type 2 short-term rental business licenses. No prior zoning or code violations have been reported on this property.

§163.02, AUTHORITY; CONDITIONS; PROCEDURES. (continued)

(2.) That satisfactory provisions and arrangements have been made concerning the following, where applicable:

(a.) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe;

Finding: The parcel has frontage along N. Boxley Avenue, a partially improved residential link with sidewalk along the western side and W. Desare Way, a partially improved residential link with sidewalk along the northern side. The street appears to have sufficient width to support on-street parking where not directly adjacent to the intersection. Staff finds the proposal will not adversely affect traffic flows considering the use of the property would be limited to a maximum of eight (8) guests, which would not be out of character with use of the property for residential purposes.

(b.) Off-street parking and loading areas where required, with particular attention to ingress and egress, economic, noise, glare, or odor effects of the special exception on adjoining properties and properties generally in the district;

Finding: The dwelling has a two-car garage with an additional two parking spaces available in the driveway. The short-term rental ordinance limits the number of guest vehicles to the maximum number of vehicles as allowed by the underlying zoning district.

(c.) Refuse and service areas, with particular reference to ingress and egress, and off-street parking and loading,

Finding: The applicant proposes typical residential trash cart service stored on the exterior garage side. Staff recommends storage of the containers should be screened from public view when not at the curb for residential pick-up.

(d.) Utilities, with reference to locations, availability, and compatibility;

Finding: Utilities are currently available to the site, and the use as a short-term rental is not anticipated to impact the provision of utilities.

(e.) Screening and buffering with reference to type, dimensions, and character;

Finding: **Staff recommends that residential carts be screened so that they are not visible from the public right-of-way.**

- (f.) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;

Finding: **Any proposed signage will be subject to Unified Development Code section 174 – Signs, and all the regulations therein.**

- (g.) Required yards and other open space; and

Finding: **Based on the applicant's submittal and city records, the structure is meeting relevant setbacks.**

- (h.) General compatibility with adjacent properties and other property in the district.

Finding: **Staff finds the proposed use to be compatible with surrounding properties. While the residences along N. Boxley Avenue are almost exclusively attached single-family dwellings, the property is within 0.1 miles of a large duplex development, and is 0.5 miles from W. Wedington Drive, a regional link street with a mix of commercial and residential uses.**

- (i.) General compatibility with the goals and intent of the city's adopted land-use, transportation, and other strategic plans.

Finding: **Staff finds the proposed use to be somewhat incompatible with the City's adopted land use, transportation, and other strategic plans since short-term rentals do not clearly support any of the goals identified in those plans. However, there are safeguards in place that limit how short-term rentals operate to ensure that the City can still meet those goals, including a citywide density cap of 475 units and restrictions on the number of units that may be used as a short-term rental in multi-family dwelling complexes.**

BUDGET/STAFF IMPACT:

None

Attachments:

- Business Regulations
 - §118.01 Applicability
- Unified Development Code
 - §163.18 Type 2 Short-Term Rentals in Residential Zoning Districts
 - §161.11 District RI-12, Residential Intermediate – Twelve (12) Units Per Acre
- Applicant Request Letter
- Site Plan
- Building Floor Plan
- Building Elevations

- Public Comments
- One Mile Map
- Close-Up Map
- Current Land Use Map
- Type-2 STRs within ¼ Mile Map

118.01 Applicability

- (E) *Short-Term Rentals.* A residential dwelling unit, portion of a dwelling unit, or bedroom within a residential dwelling unit, leased and/or rented to a guest(s), for a period of less than thirty consecutive (30) days.
- (1) *Short-Term Rental, Type 1.* A short-term rental where the principal use of the property remains as a full-time residence. The occupants or owner rent their primary residence as a short-term rental. A copy of the Homestead Tax Credit or long-term lease agreement for the subject property is required to be classified as a Type 1 rental. The occupant or owner must occupy the residence for nine (9) months of the year. Accessory dwelling units (ADUs) as defined in Unified Development Code Chapter 151 shall be considered a Type 1 short-term rental.
 - (2) *Short-Term Rental, Type 2.* A short-term rental that is not occupied by a permanent resident. The owner lists this property full-time as a short-term rental and has no intention of having permanent residents living in the property. A conditional use permit is required for a Type 2 short-term rental in a residential zoning district prior to the city issuing a business license.
 - (3) *License Required.* No dwelling unit in the city shall be used as a short-term rental unless:
 - (a) The owner of the dwelling unit or operator of the short-term rental possess a valid and current business license for the dwelling unit, and fully complies with all legal requirements and duties imposed herein with respect to each and every short-term rental; and
 - (b) The owner has designated an agent, where said agent fully complies with all legal requirements and duties imposed herein with respect to every short-term rental. The owner may serve as their own agent.
 - (c) The owner of the dwelling unit or operator of the short-term rental provides proof of a valid and current homeowners insurance rider policy which fully covers each unit when operated as short-term rental unit.
 - (4) A separate business license shall be required for each dwelling unit used as a short-term rental.
 - (5) Any change in ownership requires a new or amended business license.
 - (6) If any required contact information changes for the associated business license, the person to whom the license was issued shall immediately notify the Development Services Department in writing.
 - (7) *License Application.* The application for a business license shall include at minimum, the following information from applicants:
 - (a) The property owner's information including legal name, mailing address, immediate contact phone number, and immediate contact E-mail address.
 - (b) Information for the dwelling unit subject to the application, inclusive of the physical street address assigned by the city.
 - (c) The type and total number of dwelling units located on the lot of record containing the dwelling unit subject to the application.
 - (d) If the owner is not their own agent, the owner designated agent's information including legal name, mailing address, immediate contact phone number and immediate contact E-mail address.
 - (e) Documentation of approval of a life safety and egress inspection by the City Building Safety Division for the dwelling unit subject to the application.
 - (f) Proof of application for remittance of hotel, motel and restaurant tax to the City of Fayetteville, and verification that all sales, use, and hotel, motel and restaurant taxes are current.
 - (g) Any additional data as deemed necessary or desirable for permit approval by the Development Services Director.
 - (8) *License Renewals.* Business licenses for short-term rentals shall be renewed in accordance with Chapter 118 of the Business Regulations (Business Registry and Licenses).
 - (11) *Legal Duties of License Holders.* An owner possessing a short-term rental license shall comply at all times with the following requirements:
 - (a) *Occupancy.* Short-term rentals shall be subject to, and may not exceed, the occupancy limits approved with the business license.
 - (b) *Advertisements.* A short-term rental shall not be advertised if it violates occupancy, density, safety, and any of the other provisions of the Fayetteville Code. No short-term rental unit shall be advertised prior to having obtained a business license and the business license number shall be included in the advertisement listing.
 - (c) *Information and Posting.* Business licensees shall provide to guests and post conspicuously in the common area of the short-term rental unit the city phone number to report a safety complaint.
 - (10) *Owner or Agent Accessibility.* The property owner shall ensure that they or a designated agent are available at all times during guest occupancy, including nights and weekends, in order to facilitate compliance with this section. For the purposes of these regulations, 'availability' means that the owner or

agent is accessible by telephone, and, able to be physically present at the short-term rental within three (3) hours of being contacted.

- (11) *Guest Records.* The owner shall maintain summary guest registration records, which shall contain the actual dates of occupancy, total number of guests per party per stay, and the rate(s) charged, but shall not contain any personally identifiable information about guests. Such records shall be maintained for three (3) years and shall be provided to the City upon request.
- (12) *Health and Safety.* The owner shall ensure that each dwelling unit governed by this section complies with the applicable provisions of the Unified Development Code Chapter 173, Building Regulations.
- (13) *Criminal Activity.* The owner shall timely report any known or reasonably suspected criminal activity by a guest to the Fayetteville Police Department within twelve (12) hours maximum.
- (14) *Taxes and Fees.* Except for those instances in which a hosting platform bears the responsibility for collecting and remitting taxes and fees applicable to short-term rentals, the property owner shall timely remit in full Fayetteville Hotel, Motel and Restaurant tax and other applicable local, state, and federal taxes and city fees owed in connection with any short-term rental. The failure of a hosting platform to collect and remit taxes and fees shall not relieve an owner of the obligation to pay taxes and fees owed pursuant to this section.
- (15) *Authorization to Occupy, Use, and Operate.* Authorization to operate a short-term rental may be granted by the Development Services Director through the issuance of a City of Fayetteville Business Registry and License (Business License).
- (16) *Density For Type 2 Short-Term Rentals.* A city-wide density cap of 2% of all dwelling units in the Fayetteville city limits may be utilized as Type 2 rentals. Total dwelling units are determined from current United States Census Bureau and/or American Community Survey numbers, whichever number is higher. A conditional use permit may not permit:
 - (a) More Type 2 short-term rentals than what is allowed by the city-wide density cap. Type 2 short-term rentals in commercial and mixed-use zoning districts where hotel/motels are permitted by right shall not contribute to the city-wide density cap.
 - (b) More than 10% or a single unit whichever is greater; of total dwelling units as Type 2 rentals within a multi-family dwelling complex.
 - (c) Individual 2-, 3- and 4-family buildings that are owned by the same person or entity and are not a part of a multi-family complex shall have no more than one (1) Type 2 short-term rental unit per building complex.
 - (d) Where attached residential units are held separately through condominium association, horizontal property regime, fee simple, or similar ownership structure, no cap shall be applied to buildings with attached residential dwellings. Structures of attached residential dwellings where applicants seek more than 10% of total units for licensing as Type 2 rentals shall be evaluated by the Building Safety Director and/or Fire Marshal for adequate fire protection as defined by the adopted Arkansas Fire Prevention Code. Where inadequate fire protection is identified, improvements may be required prior to issuance of a business license.
- (17) *Suspension and Revocation.* If the Development Services Director has reason to believe that any of the grounds specified in §118.03(A) of the Fayetteville Code exist, or that any rental unit was rented for less than one (1) full night, or to more than one (1) part of guests for the same period of time, or otherwise failed to comply with all terms and conditions of this section, the Development Services Director may suspend or revoke the short-term rental's business license pursuant to the procedures detailed in §118.03 and in §118.04 of the Fayetteville Code.
- (18) Short-term rentals must comply with all applicable codes under Unified Development Code §163.18 and § 164.26 successfully obtain a business license prior to operation.

(Ord. No. 6427 , §§1(Exh. A), 2, 4-20-21; Ord. No. 6505 , §1(Exh. A), 11-16-21; Ord. No. 6521 , §§1, 2, 1-18-22; Ord. No. 6537 , §1(Exh. A), 2-15-22)

163.18 Type 2 Short-Term Rentals in Residential Zoning Districts

- (A) *Residential Zoning Districts.* Type 2 short-term rentals may be permitted as a conditional use in the following residential zoning districts:

- 1) R-A
- 2) RSF-.5
- 3) RSF-1
- 4) RSF-2
- 5) RSF-4
- 6) RSF-7
- 7) RSF-8
- 8) RSF-18
- 9) RI-12
- 10) RI-U
- 11) RMF-6
- 12) RMF-12
- 13) RMF-18
- 14) RMF-24
- 15) RMF-40
- 16) NC

Short term rentals may be permitted by right or by conditional use in planned zoning districts subject to the zoning regulations enacted by the City Council for each district.

Short-term rentals in non-residential zoning districts, mixed use zoning districts, or other zoning districts not listed above are not required to apply for a conditional use permit.

- (B) *Occupancy.* Maximum of two (2) people per bedroom, plus two (2), for the entire unit when operated as a short-term rental.
- (C) *Parking.* Parking is limited to the maximum number of vehicles as allowed by the underlying zoning district for the residential building on the property.
- (D) Special events are not permitted in a short-term rental. Example of special events include, but are not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars.
- (E) Short-term rental units are allowed in any structure established as a permanent residential dwelling including an accessory dwelling unit. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.
- (F) *Exceptions.* Exceptions to the short-term rental standards, except proposals that would exceed the city-wide density maximum, may be granted by the Planning Commission as a conditional use permit.
- (G) Short-term rentals must comply with all applicable codes under City Code §118.01 and successfully obtain a business license prior to operation.
- (H) Short-term rentals in residential zoning districts may be subject to denial or additional conditions based upon the Planning Commission's findings on the following factors:
- 1) Adequate parking infrastructure;
 - 2) Adequate adjoining or nearby streets for on-street parking;
 - 3) Frequency or concentration of nearby licensed Type 2 short-term rentals; and
 - 4) Prior zoning or code violations

(Ord. No. 6427 , §§1(Exh. E), 2, 4-20-21; Ord. No. 6505 , §2(Exh. B), 11-16-21; Ord. No. 6537 , §2(Exh. B), 2-15-22)

161.11 District RI-12, Residential Intermediate, Twelve (12) Units Per Acre

(A) *Purpose.* The RI-12 Residential District is designed to permit and encourage the development of detached and attached dwellings in suitable environments, to provide a development potential between low density and medium density with less impact than medium density development, to encourage the development of areas with existing public facilities and to encourage the development of a greater variety of housing values.

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two (2) family dwellings
Unit 10	Three (3) and four (4) family dwellings
Unit 41	Accessory dwellings
Unit 44	Cluster Housing Development
Unit 46	Short-term rentals

(2) *Conditional Uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 12a	Limited business
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	12
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(D) *Bulk and Area Regulations.*

	Single-family	Two (2) family	Three (3) family
Lot width minimum	50 feet	50 feet	90 feet
Lot area minimum	5,000 square feet	7,260 square feet	10,890 square feet.

(E) *Setback Requirements.*

Front	Side Other Uses	Side Single & Two (2) family	Rear Other Uses	Rear Single Family
A build-to zone that is located between the front property line and a line 25 feet from the front property line.	8 feet	5 feet	20 feet	5 feet

(F) *Building Height Regulations.*

Building height maximum	2 stories/3 stories*
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* A building or a portion of a building that is located between 0 and 10 feet from the front property line or any master street plan right-of-way line shall have a maximum height of two (2) stories. Buildings or portions of the

building set back greater than 10 feet from the master street plan right-of-way shall have a maximum height of three (3) stories.

(G) *Building Area*. The area occupied by all buildings shall not exceed 50% of the total lot area. Accessory ground mounted solar energy systems shall not be considered buildings.

(H) *Minimum Buildable Street Frontage*. 50% of the lot width.

(Code 1965, App. A., Art. 5(IIA); Ord. No. 3128, 10-1-85; Code 1991, §160.032; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. No. 5028, 6-19-07; Ord. No. 5224, 3-3-09; Ord. No. 5262, 8-4-09; Ord. No. 5312, 4-20-10; Ord. No. 5462, 12-6-11; Ord. No. 5592, 06-18-13; Ord. No. 5664, 2-18-14; Ord. No. 5800, §1(Exh. A), 10-6-15; Ord. No. 5921, §1, 11-1-16; Ord. No. 5945, §§4, 8, 9, 1-17-17; Ord. No. 6015, §1(Exh. A), 11-21-17; Ord. No. 6245, §2, 10-15-19; Ord. No. 6427, §§1(Exh. C), 2, 4-20-21)

Editor's note(s)—Ord. No. 6625, §1 adopted December 6, 2022, "determines that Section 2 of Ordinance 6427 (Sunset Clause) be amended so that Ordinance 6427 and all amendments to Code Sections ordained or enacted by Ordinance 6427 shall automatically sunset, be repealed and become void on December 31, 2023, unless prior to that date the City Council amends this ordinance to repeal or further amend this sunset, repeal and termination section."

Complete Description of 1623 N BOXLEY AVENUE

The complete description of the property at 1623 N Boxley Avenue, Fayetteville AR 72704 is as follows:

- Building size in square feet; existing and proposed: 1,232 ft².
- Color elevations of all exterior sides of the structure: Brick exterior with aluminum siding on garage ports.
- Number of off-street parking spaces to be provided/number required: four (4).
- When request applies to a business or non-residential use: N/A
 - o Hours of operation: N/A
 - o Number of employees: N/A
 - o Anticipated number of patrons, clients, children, customers, etc. (average per day / peak hour): N/A
- Outdoor lighting: Lighting provided at the entryway of property in front of the front door and lighting provided at the backdoor of the property.
- Noise: The property is intended as a residential leasing property with strict rules against excessive noise and further nuisances to the surrounding property.
- Screening or buffering from adjacent properties: a six-foot-tall fence runs along the back of the property separating adjacent properties to the west of applicant's property. There is no fence separating the exterior of the property with the property directly to the North of the applicant's property.
- Trash and refuse service (with particular reference to visibility from the street and adjacent properties): Trash cans are kept on the exterior side of the garage port

and are serviced by the City of Fayetteville's Residential Waste Management Services.

- Ingress and egress to the property; traffic impacts: The property has a driveway connected to N Boxley Avenue.
- A response discussing the general compatibility of the proposed use with adjacent properties and other property in the neighborhood: Applicant has also purchased the dwelling connected to the property as a complete duplex. The applicant has no intention of involving further adjacent properties in short-term leaseholder properties. Additionally, as a short term rental space intended for residential use, the property being used as such is compatible with the residential neighborhood surrounding it.

The current owners of 1623 N Boxley Avenue, Fayetteville AR 72704, LaDeana Duncan and Sir Duncan, intend to file a short term lease application with the city of Fayetteville in tandem with this conditional use application. The intention of this property and the adjacent connected property at 1625 N Boxley Avenue are to be run as short-term leasing properties for residential use only.



Figure 1: Site Plan

Building Sketch

Borrower	Duncan, Sir & LaDeana				
Property Address	1623 N Boxley Ave				
City	Fayetteville	County	Washington	State	AR
Lender/Client	First Community Bank				
				Zip Code	72704

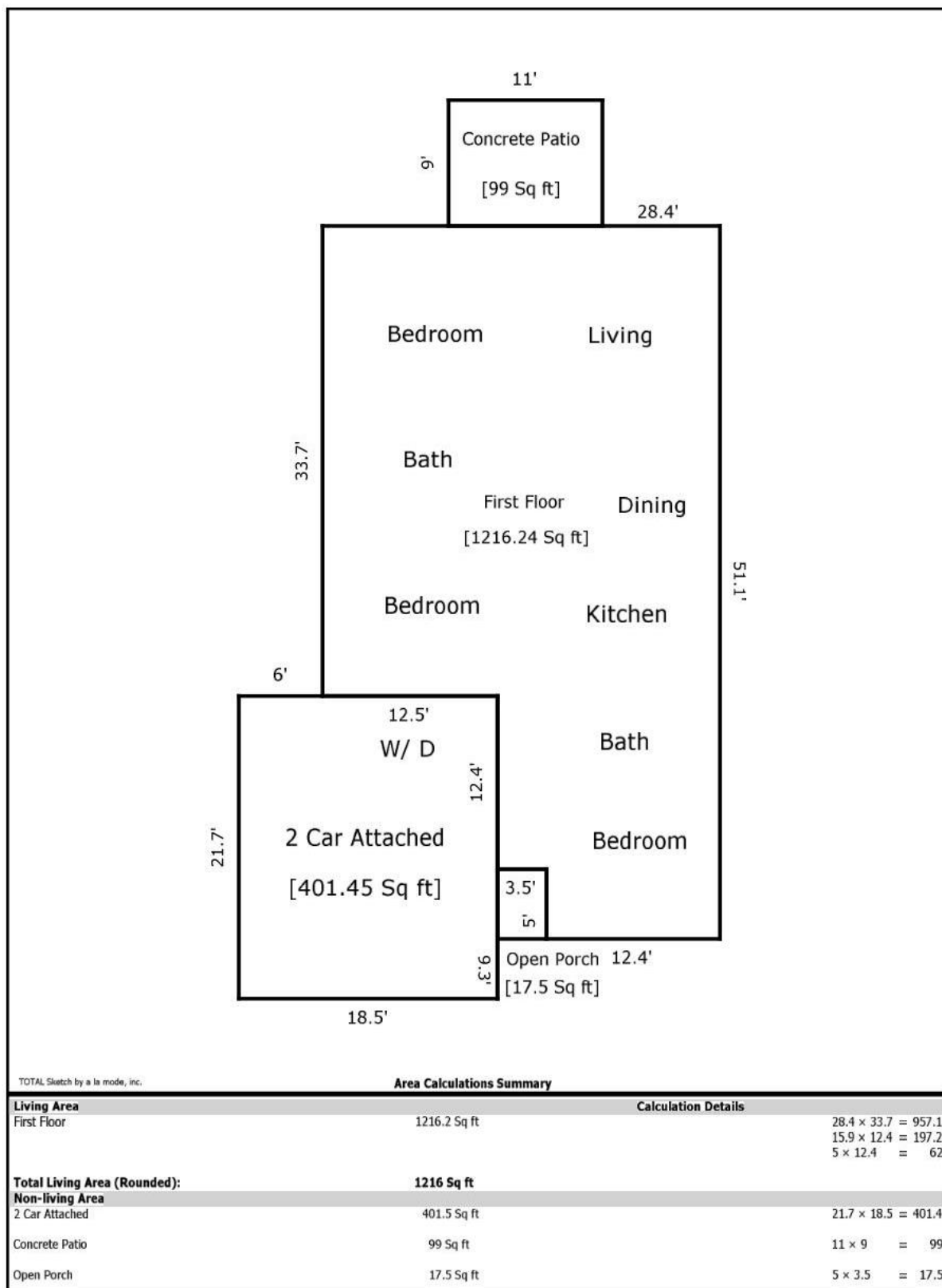


Figure 2: Floor Plan

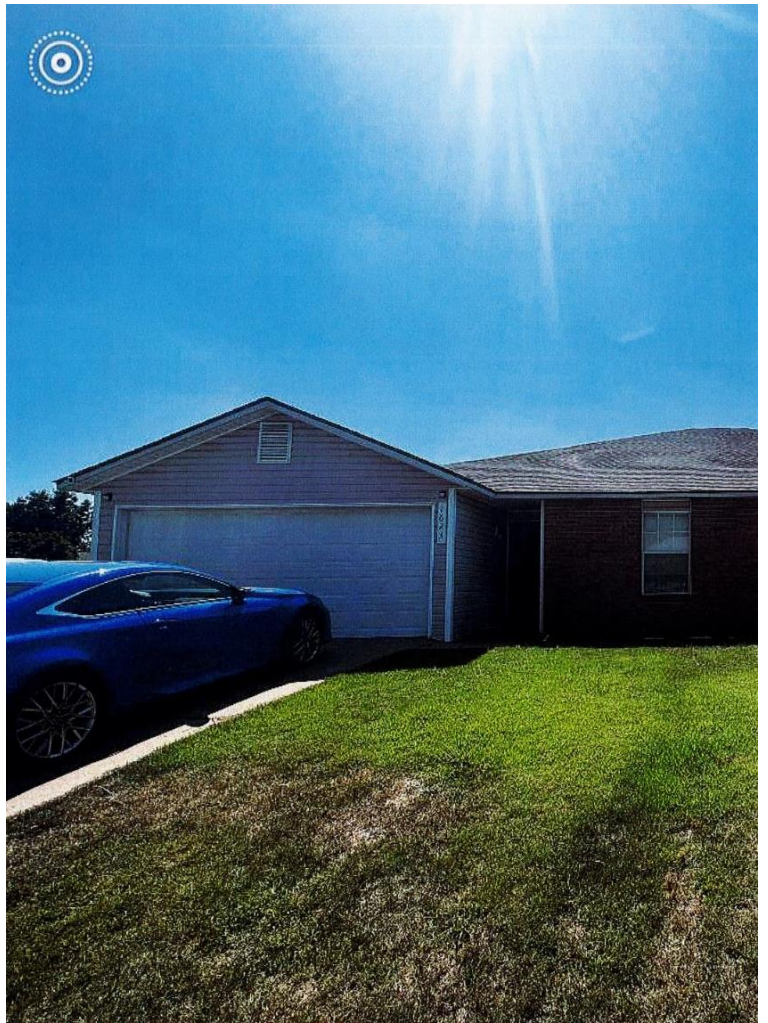


Figure 3: Front Yard



Figure 4: Side Yard

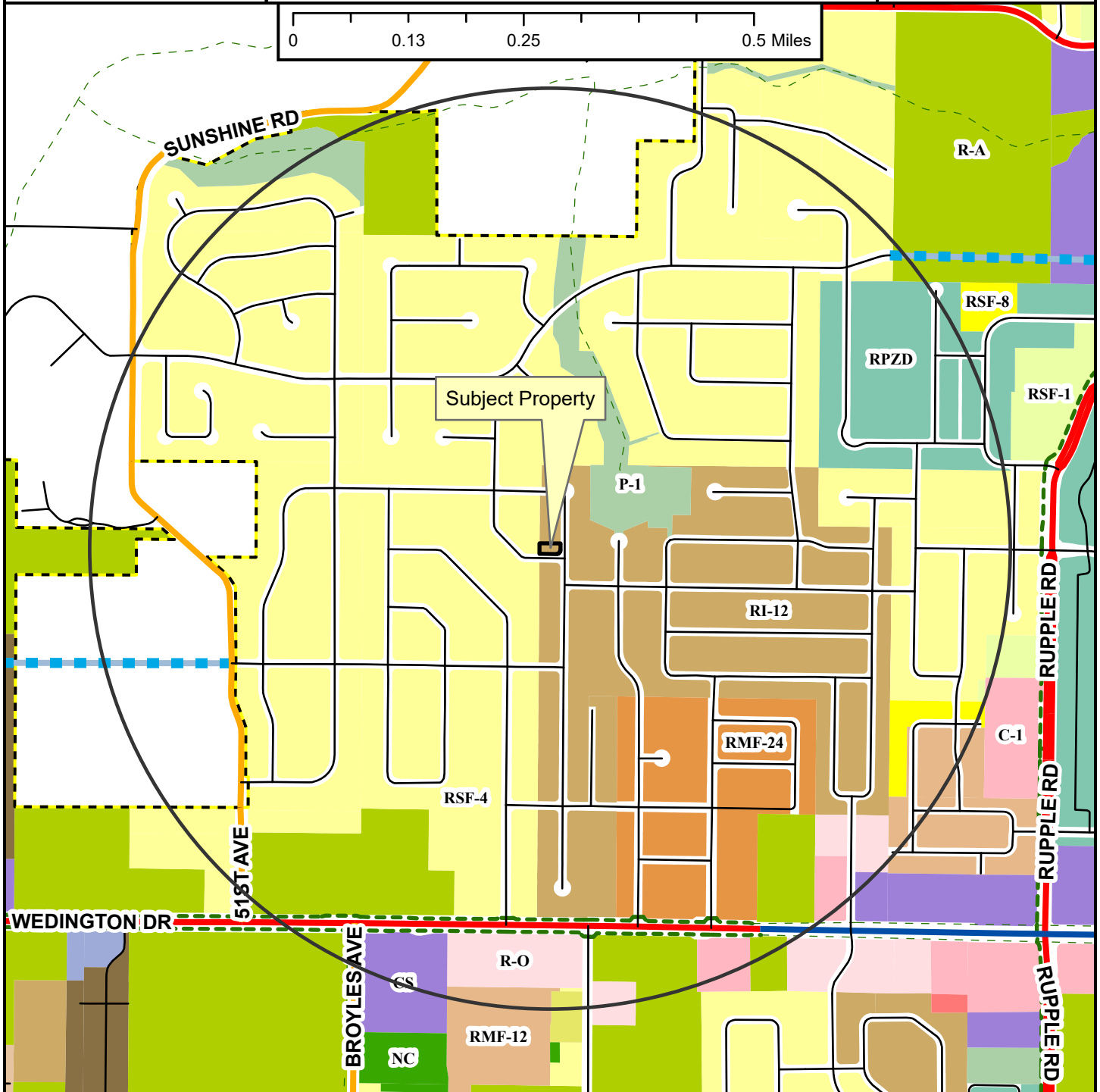
CUP-2023-0077

1623 N. BOXLEY AVE

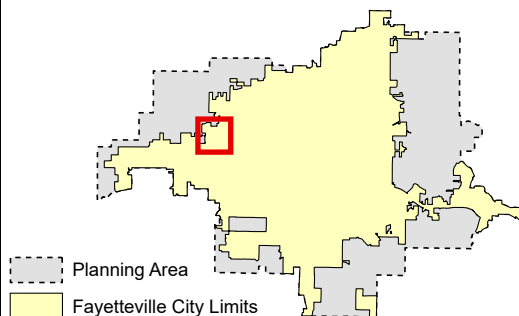
One Mile View



0 0.13 0.25 0.5 Miles



- Regional Link
- Neighborhood Link
- Regional Link - High Activity
- Unclassified
- Alley
- Residential Link
- Planned Residential Link
- Shared-Use Paved Trail
- Trail (Proposed)
- Fayetteville City Limits
- Planning Area

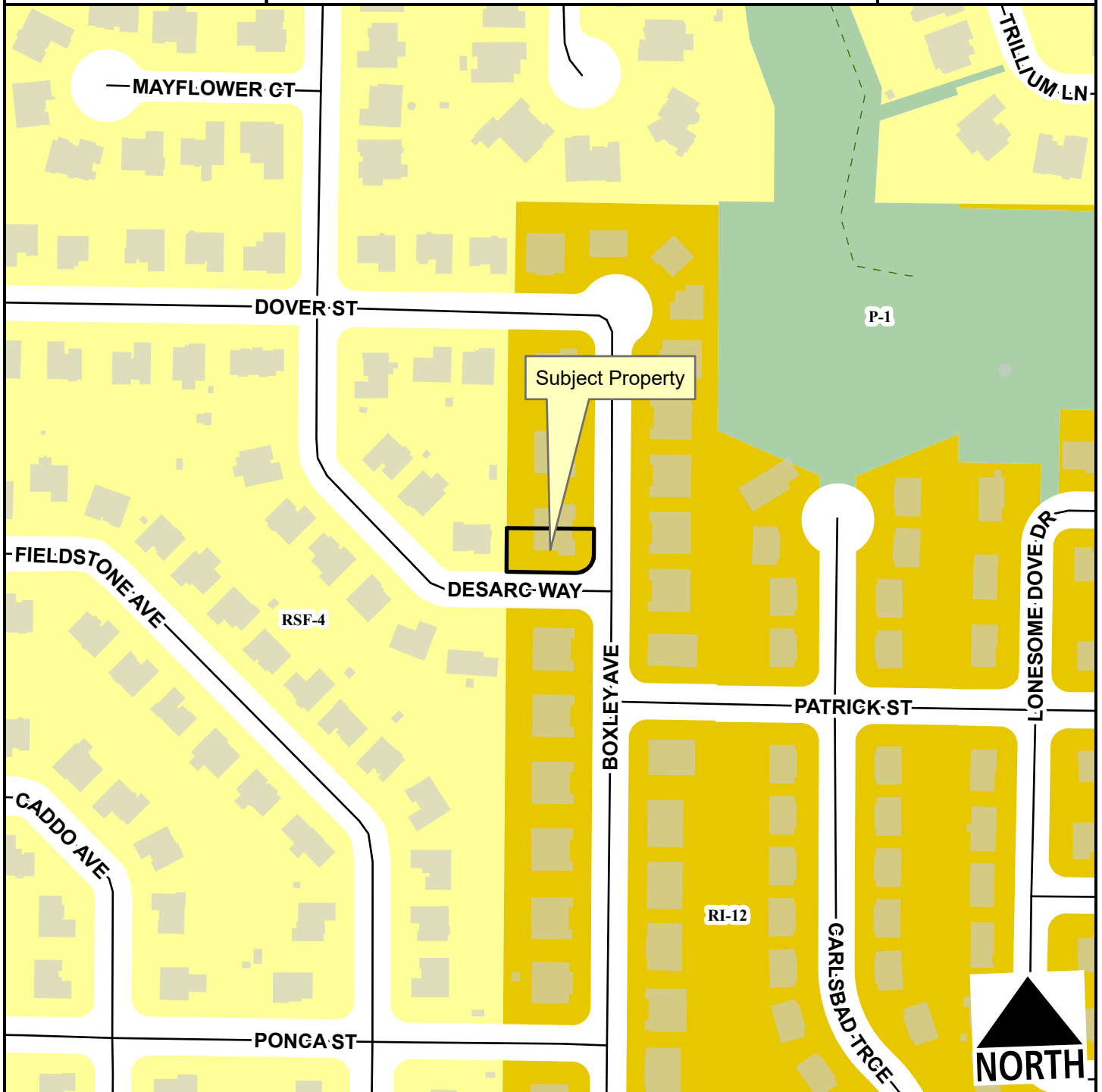


- Zoning**
- RESIDENTIAL SINGLE-FAMILY**
- NS-G
 - RI-U
 - RI-12
 - NS-L
 - Residential-Agricultural
 - RSF-5
 - RSF-2
 - RSF-4
 - RSF-7
 - RSF-8
 - RSF-18
- RESIDENTIAL MULTI-FAMILY**
- RMF-6
 - RMF-12
 - RMF-13
 - RMF-24
 - RMF-40
- INDUSTRIAL**
- I-1 Heavy Commercial and Light Industrial
 - I-2 General Industrial
- EXTRACTION**
- E-1
- COMMERCIAL**
- Residential-Office
 - C-1
 - C-2
 - C-3
- FORM BASED DISTRICTS**
- Downtown Core
 - Urban Thoroughfare
 - Main Street Center
 - Downtown General
 - Community Services
 - Neighborhood Services
 - Neighborhood Conservation
- PLANNED ZONING DISTRICTS**
- Commercial, Industrial, Residential
 - INSTITUTIONAL
 - P-1

CUP-2023-0077

1623 N. BOXLEY AVE

Close Up View



- Residential Link
- Planning Area
- Fayetteville City Limits
- Trail (Proposed)



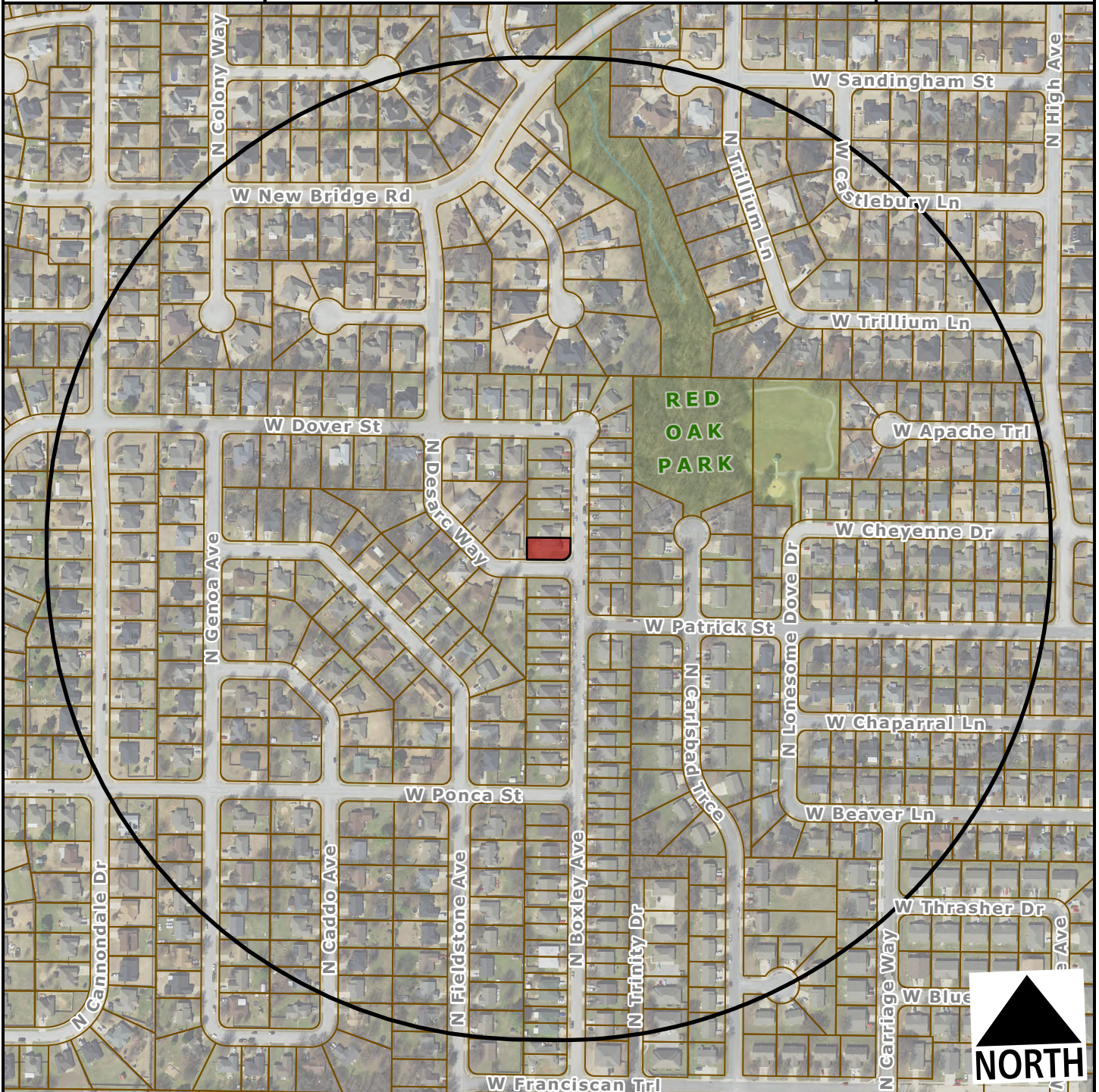
- RSF-4
- RI-12
- P-1



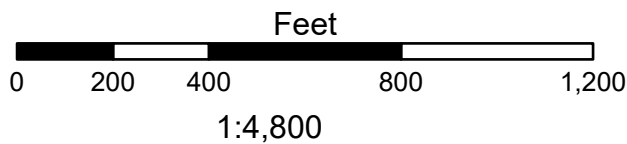
CUP-2023-0077

1623 N. BOXLEY AVE

STRs Within 1/4 Mile



-  Subject Property
-  Short Term Rental, Type 2



Number of STR Licenses

Total 0



TO: Fayetteville Planning Commission

FROM: Jessie Masters, Development Review Manager

MEETING DATE: August 14, 2023

SUBJECT: **CUP-2023-0078: Conditional Use Permit (115 E 9TH ST/MARTIN, 563):**
Submitted by MARTIN BUILDING GROUP for property located at 115 E. 9TH ST. The property is zoned RSF-18, RESIDENTIAL SINGLE-FAMILY, EIGHTEEN UNITS PER ACRE and contains approximately 0.03 acres. The request is to use the residence as a short-term rental. The request is to use the property as a short-term rental.

RECOMMENDATION:

Staff recommends approval of **CUP-2023-0078**, with conditions as outlined by staff.

RECOMMENDED MOTION:

*"I move to approve **CUP-2023-0078** with conditions, determining:*

- In favor of compatibility with adjacent properties;*
- In favor of all other conditions as recommended by staff."*

BACKGROUND:

The subject property is located in south Fayetteville, less than 200 feet to the east of Walker Park. The property is zoned RSF-18, Residential Single-Family, 18 Units Per Acre and is in the Walker Park Neighborhood Master Plan area. The parcel totals approximately 0.04 acres and contains an approximately 524 square foot attached single-family dwelling that was constructed in 2018. On April 20, 2021, City Council adopted an ordinance to regulate short-term rentals operating within its limits. On December 20, 2022, City Council amended the ordinance to enact new requirements for short-term rentals. This report reflects those new changes for consideration. Surrounding land use and zoning are depicted in *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Single-family Residential	NC, Neighborhood Conservation
South	Single-family Residential	NC, Neighborhood Conservation
East	Single-family Residential	RSF-18, Residential Single-Family, 18 Units per Acre
West	Single-family Residential	RSF-18, Residential Single-Family, 18 Units per Acre

City Plan 2040 Future Land Use Designation: **Residential Neighborhood.**

Proposal: The applicant requests conditional use permit approval to use the property as a Type 2 short-term rental, which are those not occupied by a permanent resident. Type 2 short-term rentals are subject to density limitations, including a 2% citywide cap, and restrictions on the number of units that may be used as a short-term rental in multi-family dwelling complexes.

Public Comment: Staff has not received any public comment on this item to date, though recognizes that public comment was offered up at a previous meeting on an adjacent property under consideration for a short-term rental. That adjacent short-term rental request was ultimately denied by the Planning Commission.

RECOMMENDATION: Staff recommends approval of **CUP-2023-0078**, with the following conditions;

Conditions of Approval:

1. **Planning Commission determination of compatibility.** *Staff finds the proposed short-term rental to be compatible with the neighborhood based on the findings in this report;*
2. Approval of the conditional use permit does not ensure approval of a business license application. The applicant must still be able to comply with all other applicable requirements in the development code.
3. Per §166.20, Expiration of Approved Plans and Permits, a business license must be obtained within 1 year of conditional use permit approval.
4. Per ordinance, the number of occupants is limited to a maximum of two people per bedroom, plus two, for the entire unit when the property is operated as a short-term rental.
5. Special events including, but not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars are prohibited from occurring in the short-term rental.
6. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.
7. All trash receptacles shall be screened from view of the right-of-way.
8. All outdoor lighting shall meet requirements as outlined in §176, Outdoor Lighting.
9. Any signage shall meet the requirements as outlined in §174, Signage.
10. Per §120.02(A), the owners of only short-term rentals shall be required to designate and register their Landlord's Representative into the Landlord's Representative Registry.

PLANNING COMMISSION ACTION:			
Required	<u>YES</u>		
Date: <u>August 14, 2023</u>	☐ Tabled	☐ Approved	☐ Denied
Motion:			
Second:			
Vote:			

FINDINGS OF THE STAFF

§163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

1. Hear and decide only such special exemptions as it is specifically authorized to pass on by the terms of this chapter.
2. Decide such questions as are involved in determining whether a conditional use should be granted; and,
3. Grant a conditional use with such conditions and safeguards as are appropriate under this chapter; or
4. Deny a conditional use when not in harmony with the purpose and intent of this chapter.

C. A conditional use shall not be granted by the Planning Commission unless and until:

1. A written application for a conditional use is submitted indicating the section of this chapter under which the conditional use is sought and stating the grounds on which it is requested.

Finding: The applicant has submitted a written application requesting a conditional use permit for a Type 2 short-term rental in the RSF-18 zoning district.

2. The applicant shall pay a filing fee as required under Chapter 159 to cover the cost of expenses incurred in connection with processing such application.

Finding: The applicant has paid the required filing fee.

3. The Planning Commission shall make the following written findings before a conditional use shall be issued:

(a.) That it is empowered under the section of this chapter described in the application to grant the conditional use; and

Finding: The Planning Commission is empowered under Unified Development Code §118.01(E)(2) to grant the requested conditional use permit.

(b.) That the granting of the conditional use will not adversely affect the public interest.

Finding: Staff finds that granting the requested conditional use is unlikely to negatively affect the public interest, given the applicable business license requirements including a required building safety inspection, and applicable density caps on Type 2 short-term rentals.

(c.) The Planning Commission shall certify:

- (1.) Compliance with the specific rules governing individual conditional uses; and

Finding: There are specific rules governing Short-Term Rentals, as follows:

§163.18 - SHORT-TERM RENTALS

A. General Standards.

(1) *Residential Zoning Districts.* Residential Zoning Districts. Type 2 short-term rentals may be permitted as a conditional use in the following residential zoning districts: R-A, RSF-.5, RSF-1, RSF-2, RSF-4, RSF-7, RSF-8, RSF-18, RI-12, RI-U, RMF-6, RMF-12, RMF-18, RMF-24, RMF-40, NC. Short term rentals may be permitted by right or by conditional use in planned zoning districts subject to the zoning regulations enacted by the City Council for each district. Short-term rentals in non-residential zoning districts, mixed use zoning districts, or other zoning districts not listed above are not required to apply for a conditional use permit.

Finding: The request is to operate a Type 2 Short-Term Rental, Use Unit 46, in RSF-18 zoning, which requires a conditional use permit.

(2) *Occupancy.* Maximum of two (2) people per bedroom, plus two (2), for the entire unit when operated as a short-term rental.

Finding: The dwelling has one bedroom, which would limit occupancy to four guests as described in UDC §163.18(A)(3). Occupancy limitations are confirmed by the applicant during licensing.

(3) *Parking.* Parking is limited to the maximum number of vehicles as allowed by the underlying zoning district for the residential building on the property.

Finding: Parking is limited as described in UDC §163.18(C). Parking for single-family dwellings is typically required to be provided at a rate of two spaces per unit, and up to four vehicles are permitted to be parked outdoors on the property. According to the applicant the structure has one bedroom and one off-street parking space which was approved with the original development. On-street parking does not appear to be readily available at this location, though vehicles often are parked on the north side of the street.

(4) Special events are not permitted in a short-term rental. Example of special events include, but are not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars.

Finding: The application letter suggests the property will comply with the City's regulations for a short-term rental. As a condition of approval, staff recommends a prohibition on special events.

(5) Short-term rental units are allowed in any structure established as a permanent residential dwelling including an accessory dwelling unit. No recreational vehicle, trailer,

other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

Finding: The application is for use of the property at 115 E. 9th Street. Staff recommends a condition confirming that no recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.

(6) Exceptions. Exceptions to the short-term rental standards, except proposals that would exceed the city-wide density maximum, may be granted by the Planning Commission as a conditional use permit.

Finding: Type 2 short-term rentals are subject to a citywide density cap at 475 business licenses. As of August 7, 2023, the City had issued 392 Type 2 short-term rental licenses. Granting a CUP for this location would entitle the applicant to apply for a business license but does not guarantee its approval.

(7) Short-term rentals must comply with all applicable codes under City Code §118.01 and successfully obtain a business license prior to operation.

Finding: This short-term rental would be subject to all codes in Business Regulations §118.01 that apply to Type 2 short-term rentals in residential zoning districts. Applicable business licensing requirements will be reviewed by staff and confirmed by the applicant at the time of licensing.

(8) Short-term rentals in residential zoning districts may be subject to denial or additional conditions based upon the Planning Commission's findings on the following factors:

- 1) Adequate parking infrastructure;
- 2) Adequate adjoining or nearby streets for on-street parking;
- 3) Frequency or concentration of nearby licensed Type 2 short-term rentals; and
- 4) Prior zoning or code violations.

Finding: There appears to be adequate parking available to support the use of the property as a short-term rental based on the applicant's submittal. While there is only one available parking space, given the size of the structure, staff does not anticipate that overoccupancy would become an issue at this site. Working against the location is the fact that there is not space for on-street parking, which could negatively affect the neighborhood if guests park incorrectly or illegally at this location. City records indicate 7 other units within a quarter-mile radius have active Type 2 short-term rental business licenses. Staff finds that given the density of the area, that this may not be a negative concentration of units. No prior zoning or code violations have been reported on this property.

§163.02, AUTHORITY; CONDITIONS; PROCEDURES. (continued)

(2.) That satisfactory provisions and arrangements have been made concerning the following, where applicable:

(a.) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience,

traffic flow and control and access in case of fire or catastrophe;

Finding: The parcel has frontage along E. 9th Street, which was improved at the time of this property's development with sidewalk and curb and gutter. Staff finds the proposal will not adversely affect traffic flows considering the use of the property would be limited to a maximum of 4 guests, which would not be out of character with use of the property for residential purposes

(b.) Off-street parking and loading areas where required, with particular attention to ingress and egress, economic, noise, glare, or odor effects of the special exception on adjoining properties and properties generally in the district;

Finding: The dwelling has a one-car driveway. The short-term rental ordinance limits the number of guest vehicles to the maximum number of vehicles as allowed by the underlying zoning district.

(c.) Refuse and service areas, with particular reference to ingress and egress, and off-street parking and loading,

Finding: The applicant proposes typical residential trash cart service rather than dumpster service. Staff recommends storage of the containers should be screened from public view when not at the curb for residential pick-up.

(d.) Utilities, with reference to locations, availability, and compatibility;

Finding: Utilities are currently available to the site, and the use as a short-term rental is not anticipated to impact the provision of utilities.

(e.) Screening and buffering with reference to type, dimensions, and character;

Finding: Staff recommends that residential carts be screened so that they are not visible from the public right-of-way. The applicant states that the residential trash carts are to be kept in the garage when not at the curb.

(f.) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;

Finding: Any proposed signage will be subject to Unified Development Code section 174 – Signs, and all the regulations therein.

(g.) Required yards and other open space; and

Finding: Based on the applicant's submittal and city records, the structure is meeting relevant setbacks.

- (h.) General compatibility with adjacent properties and other property in the district.

Finding: Staff finds the proposed use to be compatible with surrounding properties. The property is surrounded by residential uses, but there appears to be adequate parking to accommodate the number of permitted guests and staff does not anticipate any adverse traffic impacts with this request.

- (i.) General compatibility with the goals and intent of the city's adopted land-use, transportation, and other strategic plans.

Finding: Staff finds the proposed use to be somewhat incompatible with the goals and intent of the City's adopted land use, transportation, and other strategic plans, particularly given the property's location within the Walker Park neighborhood plan. That plan outlined a goal to encourage a balance of uses and housing and improve walkability; approval of a short-term rental at this location may be somewhat contrary to that goal. However, given the overall concentration of short-term rentals in the area, staff finds that the approval of an STR at this location may not undermine that intent. The city has safeguards in place that limit how short-term rentals operate to ensure that the City can still meet adopted goals, including a citywide density cap of 475.

BUDGET/STAFF IMPACT:

None

Attachments:

- Business Regulations
 - §118.01 Applicability
- Unified Development Code
 - §163.18 Type 2 Short-Term Rentals in Residential Zoning Districts
 - §161.07 District RSF-4, Residential Single-Family – Four (4) Units Per Acre
- Applicant Request Letter
- Site Plan
- Building Floor Plan
- Building Elevations
- One Mile Map
- Close-Up Map
- Current Land Use Map
- Type-2 STRs within ¼ Mile Map

118.01 Applicability

- (E) *Short-Term Rentals.* A residential dwelling unit, portion of a dwelling unit, or bedroom within a residential dwelling unit, leased and/or rented to a guest(s), for a period of less than thirty consecutive (30) days.
- (1) *Short-Term Rental, Type 1.* A short-term rental where the principal use of the property remains as a full-time residence. The occupants or owner rent their primary residence as a short-term rental. A copy of the Homestead Tax Credit or long-term lease agreement for the subject property is required to be classified as a Type 1 rental. The occupant or owner must occupy the residence for nine (9) months of the year. Accessory dwelling units (ADUs) as defined in Unified Development Code Chapter 151 shall be considered a Type 1 short-term rental.
 - (2) *Short-Term Rental, Type 2.* A short-term rental that is not occupied by a permanent resident. The owner lists this property full-time as a short-term rental and has no intention of having permanent residents living in the property. A conditional use permit is required for a Type 2 short-term rental in a residential zoning district prior to the city issuing a business license.
 - (3) *License Required.* No dwelling unit in the city shall be used as a short-term rental unless:
 - (a) The owner of the dwelling unit or operator of the short-term rental possess a valid and current business license for the dwelling unit, and fully complies with all legal requirements and duties imposed herein with respect to each and every short-term rental; and
 - (b) The owner has designated an agent, where said agent fully complies with all legal requirements and duties imposed herein with respect to every short-term rental. The owner may serve as their own agent.
 - (c) The owner of the dwelling unit or operator of the short-term rental provides proof of a valid and current homeowners insurance rider policy which fully covers each unit when operated as short-term rental unit.
 - (4) A separate business license shall be required for each dwelling unit used as a short-term rental.
 - (5) Any change in ownership requires a new or amended business license.
 - (6) If any required contact information changes for the associated business license, the person to whom the license was issued shall immediately notify the Development Services Department in writing.
 - (7) *License Application.* The application for a business license shall include at minimum, the following information from applicants:
 - (a) The property owner's information including legal name, mailing address, immediate contact phone number, and immediate contact E-mail address.
 - (b) Information for the dwelling unit subject to the application, inclusive of the physical street address assigned by the city.
 - (c) The type and total number of dwelling units located on the lot of record containing the dwelling unit subject to the application.
 - (d) If the owner is not their own agent, the owner designated agent's information including legal name, mailing address, immediate contact phone number and immediate contact E-mail address.
 - (e) Documentation of approval of a life safety and egress inspection by the City Building Safety Division for the dwelling unit subject to the application.
 - (f) Proof of application for remittance of hotel, motel and restaurant tax to the City of Fayetteville, and verification that all sales, use, and hotel, motel and restaurant taxes are current.
 - (g) Any additional data as deemed necessary or desirable for permit approval by the Development Services Director.
 - (8) *License Renewals.* Business licenses for short-term rentals shall be renewed in accordance with Chapter 118 of the Business Regulations (Business Registry and Licenses).
 - (11) *Legal Duties of License Holders.* An owner possessing a short-term rental license shall comply at all times with the following requirements:
 - (a) *Occupancy.* Short-term rentals shall be subject to, and may not exceed, the occupancy limits approved with the business license.
 - (b) *Advertisements.* A short-term rental shall not be advertised if it violates occupancy, density, safety, and any of the other provisions of the Fayetteville Code. No short-term rental unit shall be advertised prior to having obtained a business license and the business license number shall be included in the advertisement listing.
 - (c) *Information and Posting.* Business licensees shall provide to guests and post conspicuously in the common area of the short-term rental unit the city phone number to report a safety complaint.
 - (10) *Owner or Agent Accessibility.* The property owner shall ensure that they or a designated agent are available at all times during guest occupancy, including nights and weekends, in order to facilitate compliance with this section. For the purposes of these regulations, 'availability' means that the owner or

agent is accessible by telephone, and, able to be physically present at the short-term rental within three (3) hours of being contacted.

- (11) *Guest Records.* The owner shall maintain summary guest registration records, which shall contain the actual dates of occupancy, total number of guests per party per stay, and the rate(s) charged, but shall not contain any personally identifiable information about guests. Such records shall be maintained for three (3) years and shall be provided to the City upon request.
 - (12) *Health and Safety.* The owner shall ensure that each dwelling unit governed by this section complies with the applicable provisions of the Unified Development Code Chapter 173, Building Regulations.
 - (13) *Criminal Activity.* The owner shall timely report any known or reasonably suspected criminal activity by a guest to the Fayetteville Police Department within twelve (12) hours maximum.
 - (14) *Taxes and Fees.* Except for those instances in which a hosting platform bears the responsibility for collecting and remitting taxes and fees applicable to short-term rentals, the property owner shall timely remit in full Fayetteville Hotel, Motel and Restaurant tax and other applicable local, state, and federal taxes and city fees owed in connection with any short-term rental. The failure of a hosting platform to collect and remit taxes and fees shall not relieve an owner of the obligation to pay taxes and fees owed pursuant to this section.
 - (15) *Authorization to Occupy, Use, and Operate.* Authorization to operate a short-term rental may be granted by the Development Services Director through the issuance of a City of Fayetteville Business Registry and License (Business License).
 - (16) *Density For Type 2 Short-Term Rentals.* A city-wide density cap of 2% of all dwelling units in the Fayetteville city limits may be utilized as Type 2 rentals. Total dwelling units are determined from current United States Census Bureau and/or American Community Survey numbers, whichever number is higher. A conditional use permit may not permit:
 - (a) More Type 2 short-term rentals than what is allowed by the city-wide density cap. Type 2 short-term rentals in commercial and mixed-use zoning districts where hotel/motels are permitted by right shall not contribute to the city-wide density cap.
 - (b) More than 10% or a single unit whichever is greater; of total dwelling units as Type 2 rentals within a multi-family dwelling complex.
 - (c) Individual 2-, 3- and 4-family buildings that are owned by the same person or entity and are not a part of a multi-family complex shall have no more than one (1) Type 2 short-term rental unit per building complex.
 - (d) Where attached residential units are held separately through condominium association, horizontal property regime, fee simple, or similar ownership structure, no cap shall be applied to buildings with attached residential dwellings. Structures of attached residential dwellings where applicants seek more than 10% of total units for licensing as Type 2 rentals shall be evaluated by the Building Safety Director and/or Fire Marshal for adequate fire protection as defined by the adopted Arkansas Fire Prevention Code. Where inadequate fire protection is identified, improvements may be required prior to issuance of a business license.
 - (17) *Suspension and Revocation.* If the Development Services Director has reason to believe that any of the grounds specified in §118.03(A) of the Fayetteville Code exist, or that any rental unit was rented for less than one (1) full night, or to more than one (1) part of guests for the same period of time, or otherwise failed to comply with all terms and conditions of this section, the Development Services Director may suspend or revoke the short-term rental's business license pursuant to the procedures detailed in §118.03 and in §118.04 of the Fayetteville Code.
 - (18) Short-term rentals must comply with all applicable codes under Unified Development Code §163.18 and § 164.26 successfully obtain a business license prior to operation.
- (Ord. No. 6427 , §§1(Exh. A), 2, 4-20-21; Ord. No. 6505 , §1(Exh. A), 11-16-21; Ord. No. 6521 , §§1, 2, 1-18-22; Ord. No. 6537 , §1(Exh. A), 2-15-22)

163.18 Type 2 Short-Term Rentals in Residential Zoning Districts

- (A) *Residential Zoning Districts.* Type 2 short-term rentals may be permitted as a conditional use in the following residential zoning districts:

- 1) R-A
- 2) RSF-.5
- 3) RSF-1
- 4) RSF-2
- 5) RSF-4
- 6) RSF-7
- 7) RSF-8
- 8) RSF-18
- 9) RI-12
- 10) RI-U
- 11) RMF-6
- 12) RMF-12
- 13) RMF-18
- 14) RMF-24
- 15) RMF-40
- 16) NC

Short term rentals may be permitted by right or by conditional use in planned zoning districts subject to the zoning regulations enacted by the City Council for each district.

Short-term rentals in non-residential zoning districts, mixed use zoning districts, or other zoning districts not listed above are not required to apply for a conditional use permit.

- (B) *Occupancy.* Maximum of two (2) people per bedroom, plus two (2), for the entire unit when operated as a short-term rental.
- (C) *Parking.* Parking is limited to the maximum number of vehicles as allowed by the underlying zoning district for the residential building on the property.
- (D) Special events are not permitted in a short-term rental. Example of special events include, but are not limited to, weddings, receptions, anniversaries, private parties, fundraisers and business seminars.
- (E) Short-term rental units are allowed in any structure established as a permanent residential dwelling including an accessory dwelling unit. No recreational vehicle, trailer, other vehicle or structure not classified as a permanent residential dwelling may be used as a short-term rental.
- (F) *Exceptions.* Exceptions to the short-term rental standards, except proposals that would exceed the city-wide density maximum, may be granted by the Planning Commission as a conditional use permit.
- (G) Short-term rentals must comply with all applicable codes under City Code §118.01 and successfully obtain a business license prior to operation.
- (H) Short-term rentals in residential zoning districts may be subject to denial or additional conditions based upon the Planning Commission's findings on the following factors:
- 1) Adequate parking infrastructure;
 - 2) Adequate adjoining or nearby streets for on-street parking;
 - 3) Frequency or concentration of nearby licensed Type 2 short-term rentals; and
 - 4) Prior zoning or code violations

(Ord. No. 6427 , §§1(Exh. E), 2, 4-20-21; Ord. No. 6505 , §2(Exh. B), 11-16-21; Ord. No. 6537 , §2(Exh. B), 2-15-22)

161.10 District RSF-18, Residential Single-Family - Eighteen (18) Units Per Acre

(A) *Purpose.* The RSF-18 Single-family Residential District is designed to promote and encourage the efficient development of single-family detached residences in a variety of densities.

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 41	Accessory dwellings
Unit 46	Short-term rentals

(2) *Conditional Uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 9	Two-family dwellings
Unit 12a	Limited business
Unit 24	Home occupations
Unit 36	Wireless communications facilities
Unit 44	Cluster Housing Development

(C) *Density.*

Units per acre	Eighteen (18) or less
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(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

Single-family	30 feet
Two (2) family	30 feet

(2) *Lot Area Minimum.*

Townhouses: individual lot	1,250 square feet
Single-family	2,500 square feet
Two-family	2,000 square feet

(E) *Setback Requirements.*

Front	Side	Side-Zero Lot Line*	Rear
A build-to zone that is located between the front property line and a line 25 ft. from the front property line.	5 feet on both sides	A setback of less than five feet (zero lot line) is permitted on one interior side, provided a maintenance agreement is filed**. The remaining side setback(s) shall be 10 feet.	5 feet

* A zero lot line is an alternative to the 5 foot building setback. Applicants should consult the International Building Code when locating a structure in close proximity to property lines and/or adjacent structures.

** At least 5 feet of maintenance area shall be provided along a structure that is within 5 feet of a property line. This may be provided through a perpetual maintenance easement on the adjacent property, or through a combination of a maintenance easement and private property. Walls, fences and customary yard accessories are permitted in the maintenance area.

(F) *Building Height Regulations.*

Building Height Maximum	3 stories
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(G) *Building Area.* The area occupied by all buildings shall not exceed 60% of the total lot area. Accessory ground mounted solar energy systems shall not be considered buildings.

(H) *Minimum Buildable Street Frontage.* 50% of the lot width for two-family dwellings.

(Ord. No. 5800 , §2(Exh. B), 10-6-15; Ord. No. 5824 , §2, 11-17-15; Ord. No. 5921 , §1, 11-1-16; Ord. No. 5945 , §8, 1-17-17; Ord. No. 6015 , §1(Exh. A), 11-21-17; Ord. No. 6245 , §2, 10-15-19; Ord. No. 6427 , §§1(Exh. C), 2, 4-20-21)

Editor's note(s)—Ord. No. 6625 , §1 adopted December 6, 2022, "determines that Section 2 of Ordinance 6427 (Sunset Clause) be amended so that Ordinance 6427 and all amendments to Code Sections ordained or enacted by Ordinance 6427 shall automatically sunset, be repealed and become void on December 31, 2023, unless prior to that date the City Council amends this ordinance to repeal or further amend this sunset, repeal and termination section."

115 E 9th Street, Fayetteville AR

Request for CUP to be an STR- type 2

The house is 580sf on a platted lot 7A

The property can handle up to 2 cars tandem parked on the lot in parking area, but there would also be on street parking.

See pics of all elevations.

Legal, site plan, and floor plan, parcel map attached.







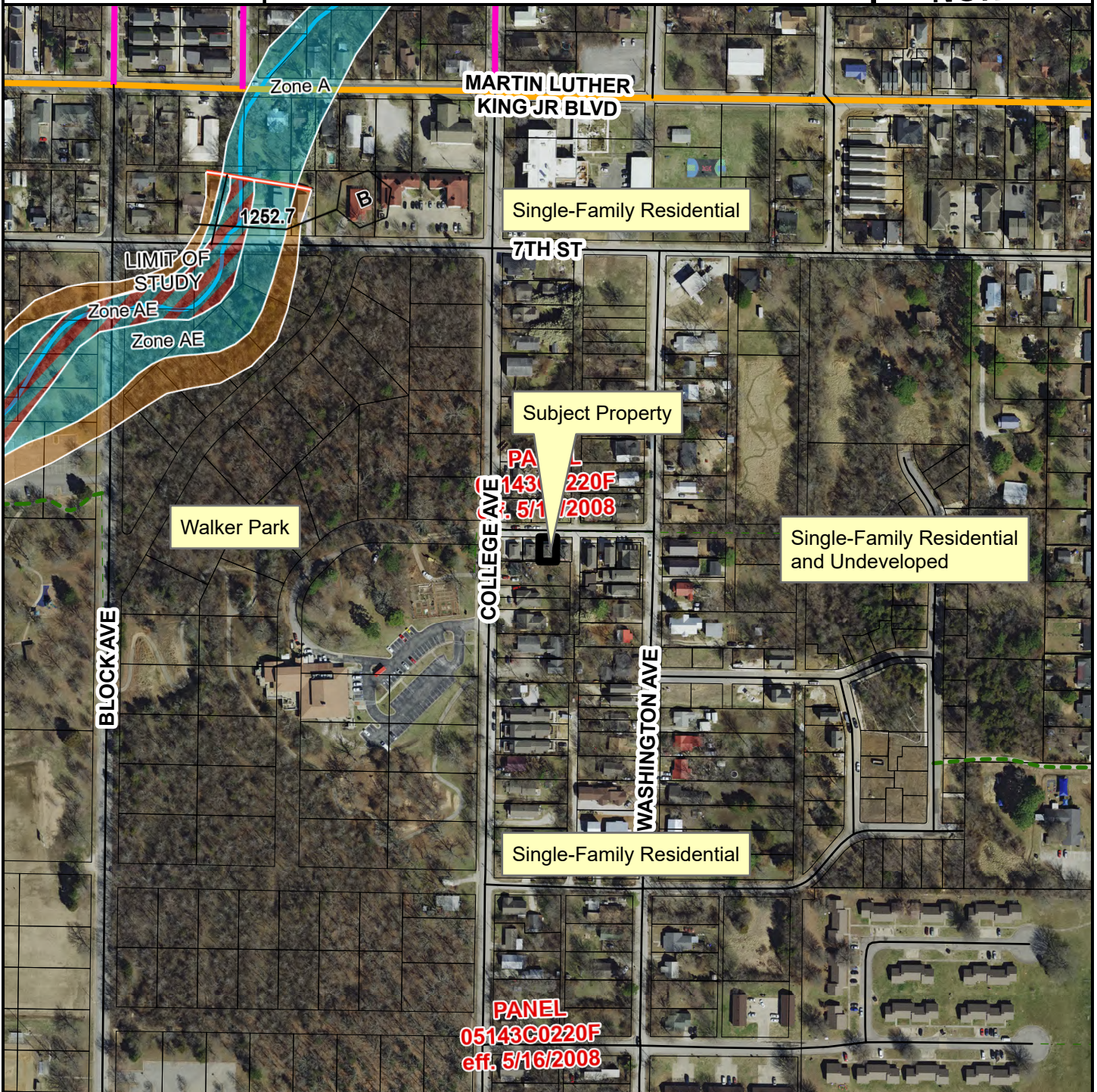




CUP-2023-0078

115 E 9TH ST

Current Land Use



- Neighborhood Link
- Urban Center
- Unclassified
- Residential Link
- Trail (Proposed)
- Planning Area
- Fayetteville City Limits



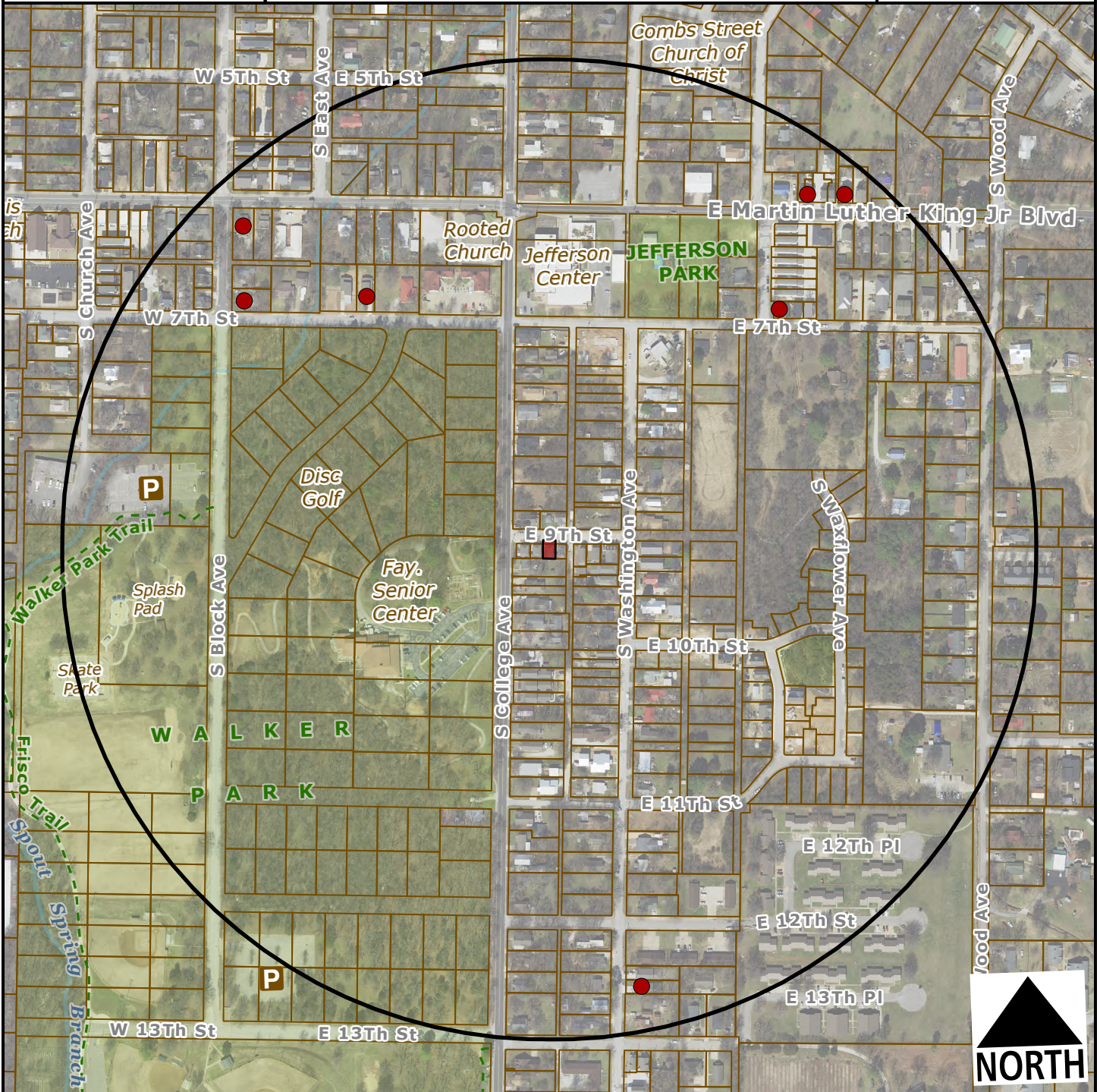
FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

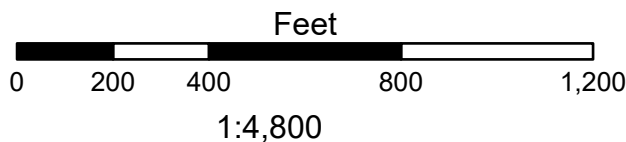
CUP-2023-0078

115 E 9TH ST

STRs Within 1/4 Mile



-  Subject Property
-  Short Term Rental, Type 2



Number of STR Licenses

Total 7